96TH CONGRESS : : : : 1ST SESSION

JANUARY 15, 1979–JANUARY 3, 1980

SENATE REPORTS

VOL. 6

MISCELLANEOUS REPORTS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

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*Corrected print.

Calendar No. 211

96th Congress } SENATE { Report
1st Session } { No. 96-196

INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1979

May 29, 1979.—Ordered to be printed
Filed under authority of the order of the Senate of May 24, 1979

Mr. Glenn, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 588]

The Committee on Governmental Affairs, to which was referred the bill (S. 588) having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill as amended do pass.

I. Purpose of Legislation

Title II of S. 588 establishes an Institute for Technological Cooperation with the objective of developing the necessary scientific and technological infrastructure and capabilities in a broad range of developing countries to solve developmental problems through collaborative research programs. For the first time, the changing needs and philosophies of foreign assistance will be addressed from the point of view of multilateral, long term, problem oriented programs. By building service and technology capacity in the developing country, they will be in a position to begin helping themselves in the developmental process. These efforts will bring the talents of the United States and a broad range of developing countries to bear on economic, political, and social institutions that affect the quality of life in the developing countries as well as problems of mutual interest including health, agriculture, and the development process.

Thus, the benefits accrued will not flow in only one direction. The Institute will put us in direct contact with the scientific and technological communities of rapidly advancing countries which are doing research of importance to us.

The Institute promises to be a new instrument in addressing the immediate problems of poverty and in shaping the pattern of future scientific and technological relations with an important part of our world.

II. HISTORY OF THE LEGISLATION

The International Development Assistance Act of 1979 was introduced in the Senate on March 8, 1979, and referred to the Committee on Foreign Relations.

The bill was reported with amendments by the Foreign Relations Committee on May 11, 1979.

On May 15, 1979, S. 588 was rereferred to the Governmental Affairs Committee until June 4, 1979 for the purposes of considering title II of the bill, establishing the Institute for Technological Cooperation.

Previously, the committee on April 24, 1979, held hearings on a separate bill, S. 499, creating a similar Foundation for International and Scientific Technological Cooperation. In connection with this hearing the committee also received comments on the similar proposal in S. 588.

The Committee ordered S. 588 reported favorably, with amendments, on May 22, 1979.

The following witnesses testified at the hearings: Senator Adlai Stevenson; Senator Harrison Schmitt; Dr. Frank Press, Director, Office of Science and Technological Policy; Hon. Thomas R. Pickering, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; Dr. Ralph Smuckler, Director, Office of Planning, Institute for Technical Cooperation; and Dr. James Hester, rector of U.N. University, Tokyo, Japan.

III. SUMMARY OF THE AMENDMENTS PASSED BY THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

The Governmental Affairs Committee passed four amendments to title II of S. 588.

In section 202, the bill reported out by the Foreign Relations Committee provided that the President is authorized to establish the Institute. By striking out the words "is authorized to" and inserting in lieu thereof, the word "shall," the importance and support that the Governmental Affairs Committee gives to the formation of the Institute was emphasized. Similarly, by directing rather than authorizing the President to establish the Council in section 207(a), the committee reiterates the importance of the Council's role in providing expert advice to the Director from other agencies of Government, from the private sector, and from developing countries.

In section 205, this committee elevated the level of the Director of the Institute from level III, as reported out by the Foreign Relations Committee, to level II of the Executive schedule under title 5 of the United States Code. Similarly, the levels of the Deputy Director and two additional positions (sec. 206 (a) and (c), respectively) were elevated to levels III and IV, respectively, of the executive schedule under title 5 of the United States Code. This committee, by elevating the Director to level II compensation, emphasizes the importance it attaches to the Director's position in determining the success of the

Institute. This action also equalizes the Executive level of the Director with that of the AID Administrator so that both will have the same stature under the proposed umbrella organization of the International Development Cooperation Agency.

In section 207(c)(1), the bill, as reported by the Foreign Relations Committee, provided that the Council shall be comprised of U.S. citizens who had an "interest in" the scientific and technological problems of developing countries. The amendment by this committee provided that members of the Council shall have "knowledge of" these problems. In doing so, this committee desires to ensure that Council members are either professional scientists or have specific knowledge of scientific and technological developmental problems in the developing countries. In general, the committee feels that the Council members should be widely recognized as experts in areas that cover a variety of disciplines including the physical, life, health, mathematical, agricultural, and engineering sciences, economics, and other disciplines pertinent to developmental problems.

Finally, the Governmental Affairs Committee added section 213 which provided for a 10-year "sunset" provision that calls for the termination of these provisions on September 30, 1989. This committee feels that the 10-year interval is necessary and sufficient to establish and implement meaningful developmental policies and programs of a long-term nature. A shorter period may not be adequate for the reasonable evaluation of policies, directions, and programs.

IV. Summary and Analysis of Title II of S. 588 Establishing the Institute for Technological Cooperation

Title II of S. 588 directs the President to establish the Institute for Technological Cooperation with the objective of developing the necessary scientific and technological infrastructure and capabilities in a broad range of developing countries to solve their developmental problems through collaborative research programs. The following is a description of title II of S. 588 as reported by the Foreign Relations Committee, as further amended by the Government Affairs Committee.

SECTION 201. STATEMENT OF POLICY

Section 201 sets forth the policies and principles that are the foundation of the Institute. In concert with the Foreign Assistance Act of 1961, it restates a major objective of the foreign policy of the United States as being the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. It reaffirms our profound humanitarian and foreign policy concerns in the economic and social progress of the developing countries to alleviate the problems of poverty and suffering. This section underscores our global commitment in these areas ad recognizes that developing countries require establishment or expension of scientific and technological capabilities to deal effectively with their developmental problems, to relate to the industrialized nations in a collaborative manner, and to participate constructively in the shaping of a mature world order. The section concludes that it is in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and to jointly support long-term research on those critical problems that impede development and limit efficient use of the world's human, natural, and capital resources. It is evident that the words mutual and collaborative emphasis and point to a truly interdisciplinary effort among countries of the world.

SECTION 202. ESTABLISHMENT OF THE INSTITUTE

This section directs the President to establish the Institute, thus emphasizing the importance and support given by the committee to the formation of the Institute. The Institute shall be subject to the foreign policy guidance of the Secretary of State. It is expected that this guidance will be of a general nature so as not to interfere with the ability of the Institute to choose its own programs, consistent with the policies and functions delineated in the legislation and consistent with the need for coordination with other developmental activities.

The committee supported creation of the Institute upon the assurances by the administration that the Institute would be a unit within the International Development Cooperation Agency (IDCA) if the reorganization plan creating IDCA goes into effect. The reorganization has been submitted by the President and is now pending before Congress. The committee fully supports the proposal to place the Institute within the IDCA and believes that this organizational structure will help insure the overall effectiveness of the Institute.

The objectives of the Institute are to strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries.

SECTION 203. FUNCTIONS OF THE INSTITUTE

To carry out the purposes of the Institute, section 203(a) establishes the following six basic functions of the Institute:

(1) Assist developing countries to strengthen their own capacity to generate, adapt, utilize, and disseminate knowledge and technologies necessary for their development:

(2) support research in the United States and in developing countries, on critical development problems, with emphasis on those which affect the lives of the majority of people in developing countries;

(3) foster the exchange of scientists and other technical experts, as well as other forms of exchanges and communications;

(4) advise and assist other agencies in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private U.S. institutes, businesses, and individuals in research, training, and other forms of cooperating with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

It is expected that these six basic functions will be carried out in a manner fostering a spirit of collaboration and cooperation. It is also expected that programs will address a wide spectrum of problems of mutual interest including but not limited to health, agronomy, energy, communications, and population with least developed countries and more advanced developing countries ("middle tier" countries).

Section 203(b) provides that, for the purposes of carrying out the functions of the Institute, the President may utilize the provisions of this act, as well as authorities included in:

(1) The Foreign Assistance Act of 1961, as amended;

(2) The Foreign Service Act of 1946;

(3) Title V of the Foreign Relations Authorization Act, fiscal year 1979; and

(4) Title IV of the International Development and Food Assistance Act of 1978.

Although not specifically mentioned in this section the establishment of the Institute with the stated purpose and functions is consistent with the provisions of title V of the Nuclear Non-proliferation Act of 1978. The activities of the Institute in the area of energy would therefore be expected to be consistent with the objectives of the aforementioned title. This is reinforced by section 203(d) described below.

Section 203(c) provides that the Institute shall carry out its functions in consultation and cooperation with other U.S. Government agencies.

Section 203(d) provides that the President shall prescribe appropriate procedures to assure coordination of activities of the Institute with other activities of the U.S. Government in furthering the use of Science and technology in the cause of development.

SECTION 204. GENERAL AUTHORITIES

Section 204 delineates the general authorities granted to the President by which he carries out the purposes and functions of the Institute. The powers and authorities are:

(1) The making and performance of contracts and agreements;

(2) The making of advances, grants, and loans;

(3) The establishment of a personnel system, subject to general civil service rules and regulations;

(4) the utilization of the talents of foreign nationals by payment of compensation and their expenses while assisting the work of the Institute;

(5) The acceptance of money, funds, property, and services for the Institute use;

(6) The acquisition and disposition of property of all kinds;

(7) The establishment of Institute rules and regulations to guide its operations;

(8) The ability to utilize the services, information, and employees of any agency;

(9) The establishment of a principal office and other necessary offices;

(10) The making of necessary expenditures;

(11) The use of an official seal for the Institute; and

(12) Such other actions as may be necessary and incident to carrying out functions of the Institute.

SECTION 205. DIRECTOR OF THE INSTITUTE

Section 205(a) establishes the Office of the Director of the Institute with the Director being the chief executive officer of the Institute. The Director is appointed by the President by and with the advice and consent of the Senate. The Director is compensated at the rate provided for level II of the Executive schedule. The committee, by elevating the Director to level II compensation, emphasizes the importance it attaches to the Director's position in determining the success of the Institute. This action also equalizes the Executive level of the Director with that of the AID Administrator so that both will have the same stature under the proposed umbrella organization of the International Development Cooperation Agency (IDCA).

Section 205(b) enables the President to exercise the authorities of this title through the Director or any other agency or officer. The Director, in turn, may delegate to any of his subordinates the authority to perform any of his functions.

SECTION 206. DEPUTY DIRECTOR AND OTHER STATUTORY OFFICES

Section 206(a) establishes the position of Deputy Director of the Institute to be appointed by the President by and with the advice and consent of the Senate. The Deputy Director is to be compensated at the rate provided for level III of the Executive schedule.

Section 206(b) defines the powers and duties of the Deputy Director and section 206(c) provides for up to two additional officers appointed by the President to be compensated at the rate provided for level IV of the Executive schedule.

SECTION 207. COUNCIL ON INTERNATIONAL TECHNOLOGICAL COOPERATION

Section 207(a) directs the President to establish a Council on International Technological Cooperation. The committee, by directing rather than authorizing that the President establish the Council reiterates the importance of the Council's role in providing expert advice to the Director from other agencies of Government, from the private sector, and from developing countries.

Section 207(b) states that the Council shall:

(1) Advise the Director with respect to the policies, progams, and procedures of the Institute;

(2) make recommendations to the Director on the use of resources available to the Institute;

(3) advise the Director on matters involving the activities of the Institute outside the United States and appropriate relationships with the private sector, within and without the United States, and

(4) make recommendations to the Director on all the foregoing, and the Director shall not approve or disapprove a new program or initiative until he has deceived within a reasonable period of time the recommendations of the Council.

This subsection is intended to require the Director to solicit the views of the Council on any transfers of projects or programs from other agencies, particularly the transfer of centrally funded projects from

AID. Thus, this subsection provides the Council with a substantial role in the Institute and at the same time leaves adequate flexibility for the Director.

Section 207(c) provides that the Council shall consist of up to 25 members selected by the President, one of whom the President shall designate as the chairman. The same subsection states that the members of the Council shall be selected from among the following categories:

(1) U.S. citizens who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their knowledge of the scientific and technological problems of developing countries;

(2) Citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries. Not more than one-third of the members of the Council shall be citizens of foreign countries; and

(3) Up to five members of the Council may be officials of the U.S. Government, one of whom shall be the Secretary of State or his designee.

The committee desires to ensure that Council members are either professional scientists or have specific knowledge of scientific and technological developmental problems in the developing countries. In general, the Council members should be widely recognized as experts in areas that cover a variety of disciplines including the physical, life, health, mathematical, agricultural and engineering sciences, economics, and other disciplines pertinent to developmental problems.

Section 207(d) provides that members of the Council who are not officials of the U.S. Government shall be entitled to compensation not to exceed the daily equivalent of the highest rate paid to an employee under the general schedule while in performance of their duties under this title and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes or regular places of business.

The section provides that members of the Council who are not officials of the U.S. Government shall not be deemed officers, employees, or otherwise in the service or employment of the U.S. Government for any purpose, except that members of the Council who are U.S. citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

SECTION 208. INSTITUTE FELLOWS

Institute fellowships are a principal means by which the Institute will mobilize scientific and other professional talent to assist developing countries improve their scientific and technological capacities and and address significant problems of development. The fellowships are similar to those provided by the National Institutes of Health. Scientists and other professionals will come to the Institute from such places as universities, the private sector, and from governments here and abroad to work on specific problems affecting developing countries.

Section 208(a) authorizes the President to award up to 20 fellowships annually for periods of up to 2 years. The awards are renewable for an additional 2-year period. The total number of fellowships at any one time, including renewals, may not exceed 40. The fellows should demonstrate exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor in which the Institute concentrates. The awards will encompass a wide variety of disciplines and backgrounds and will be made on the basis of criteria established by the President upon the advice of the Council of the Institute.

Among other types of experts, fellowships should be awarded to individuals with expertise in business and financial management. During this committee's hearings on the related proposal to create the International Development and Cooperation Agency, Comptroller General Staats pointed out that this country's development assistance programs do not give nearly enough attention to developing the capability of foreign countries in the area of business management and administration. Since the primary objective of the Institute will be economic development, and business management is an essential part of successful economic development, the Institute should include within its fellowship programs people who can help promote the adoption of good business management techniques in developing countries.

Up to 10 awards each year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute fellows.

Section 208(b) authorizes the President to assign fellows to undertake such activities in the United States or abroad as will further the purposes of the Institute.

Section 208(c) limits the amount of the award to the highest rate which may be paid to an employee under the general schedule established by section 5332 of title 5 of the United States Code. The President is authorized to make provision for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care, or health or accident insurance for Institute fellows and their dependents while engaged in activities authorized by this title.

The committee does not expect that all of the Institute fellows will be hired at the highest rate permitted under this subsection. The pay structure for fellows should reflect their professional experience and previous earnings as well as other criteria normally used to determine the rate of pay of general schedule employees. To the extent any of the fellowship awards may be tax free, the amount of the award should be adjusted downward to reflect the exclusion of the amount of the award from the recipient's gross income.

Section 208(d) states that fellows shall not be deemed employees or otherwise in the service or employment of the U.S. Government, except for the purposes of compensation of injuries and the tort claim provisions of chapter 171 of title 28 of the United States Code. Institute fellows who are U.S. citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code, relating to conflict of interest.

Section 208(e) permits alien participants in any program of the Institute, including Institute fellows and their dependents, to be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

SECTION 209. CONFLICT OF INTEREST

Section 209 states that members of the Council and Institute fellows shall avoid any action which might result in, or create the appearance of, a conflict of interest including, but not limited to, a list of specified items.

SECTION 210. APPROPRIATIONS

This section authorizes the appropriation of $25 million to carry out the provisions of title II of this act. The funds shall remain available until expended.

SECTION 211. EVALUATIONS AND ANNUAL REPORT

Section 211(a) provides that the Director, in consultation with the Council, shall establish procedures for the evaluation of the programs of the Institute within 6 months of the date that the provisions of the bill take effect. Such procedures shall be reviewed annually and may be modified subsequent to such reviews. The evaluations should enable a meaningful judgment to be rendered as to the effectiveness and efficiency of the Institute. In particular, the evaluations should consider how well the programs fulfilll their objectives and should include but not be limited to the following additional considerations:

(1) How each particular program or project is contributing to the developmental policy objectives of the Institute;

(2) Projected 5-year results of each program; and

(3) An estimate of the most likely expected applications of "multiplier effects".

The section also provides that the evaluation shall be made annually and submitted to the President and the Congress not later than 60 days after the close of each fiscal year.

This section also states that if the IDCA is established, the Director of the Institute shall consult with the IDCA Director in establishing or modifying such evaluation procedures and shall submit the evaluations performed pursuant to the procedures to the Director of the IDCA for submittal to the President and the Congress. If IDCA is not established, the Director shall submit the evaluations directly to the President and to the Congress. Evaluation information should be so formulated and reported that it can be used to:

(1) Guide and modify programs performed under the auspices of the Institute;

(2) improve the realism and quality of program planning;

(3) facilitate internal evaluation of projects and programs; and

(4) assure that information obtained can be effectively used and considered in the evaluation of other foreign assistance programs.

Section 211(b) provides that, not later than 90 days after the close of each fiscal year, the President shall submit to Congress a complete and detailed report of the operations of the Institute during such fiscal year, together with a report on the evaluations required by subsection (a) and recommendations on proposed actions to be taken pursuant to consideration of the evaluations.

Section 211(c) directs the General Accounting Office (GAO) to undertake a critical evaluation of the Institute to ascertain the effectiveness of its management and programs and directs the GAO to submit such evaluation to Congress not later than 60 days after the close of fiscal year 1988.

SECTION 212. MISCELLANEOUS PROVISIONS

These provisions add the four Presidentially appointed positions authorized in sections 205 and 206 of this act to the relevant sections of title 5 of the United States Code, and four positions to be added to the number promulgated under section 5311(b)(1) of title 5 of the United States Code.

SECTION 213. TERMINATION OF PROVISIONS

Section 213 provides for the termination of the provisions of title II on September 30, 1989, a 10-year "sunset" provision. The 10-year interval is deemed necessary and sufficient to establish and implement meaningful developmental policies and programs of a long-term nature. A shorter period may not be adequate for the reasonable evaluation of policies, directions, and programs. The GAO evaluation provided for in section 211(c) will provide information to the Congress to serve as a basis for possible reauthorization.

SECTION 214. EFFECTIVE DATE

The provisions of the bill shall take effect on October 1, 1979.

V. Cost Estimate

Congress Budget Office,
U.S. Congress,
Washington, D.C., May 29, 1979.

Hon. Abraham Ribicoff,
Chairman, Committee on Governmental Affairs, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for title II of S. 588, the International Development Assistance Act of 1979.

Should the committee so desire, we would be pleased to provide further detail on the attached cost estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Congressional Budget Office—Cost Estimate

May 29, 1979.

1. Bill number: Title II of S. 588.
2. Bill title: International Development Assistance Act of 1979.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on May 22, 1979.

4. Bill purpose: This legislation creates a new Institute for Technological Cooperation and authorizes the appropriation of $25 million in fiscal year 1980 for the Institute.

5. Cost estimate:

	Millions
Budget function 150:	
Authorization amount:	
Fiscal year:	
1980	$25.0
1981	-----
1982	-----
1983	-----
1984	-----
Estimated outlays:	
Fiscal year:	
1980	6.3
1981	10.0
1982	7.5
1983	1.2
1984	-----

6. Basis for estimate: This estimate assumes enactment of this legislation by October 1, 1979, and full appropriation of the amounts authorized. Outlays were based on the President's estimates for 1980 and extrapolations for the years 1981–84.

7. Estimate comparison: None.

8. Previous CBO estimate: An estimate of S. 588 as ordered reported by the Senate Committee on Foreign Relations was prepared on May 10, 1979. The amendments offered by the Committee on Governmental Affairs have no budget impact.

9. Estimate prepared by Joseph C. Whitehill.

10. Estimate approved by

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

VI. REGULATORY IMPACT STATEMENT

In accordance with rule XXIX of the Standing Rules of the Senate, the committee has evaluated the regulatory impact of this bill and finds that its enactment would have no regulatory impact. This bill authorizes the appropriation of funds for international development assistance and voluntary contributions to international organizations and programs. The bill also modifies certain provisions of the Foreign Assistance Act of 1961, as amended. Title II in particular creates an Institute to promote technological and scientific cooperation with the third world. The bill does not impose regulatory requirements on the public.

VII. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following are tabulations of votes cast in person or proxy by members of the Committee on Governmental Affairs on May 22, 1979, meeting to consider S. 588:

The committee agreed to report S. 588 with amendments by a vote of 9 to 0[1] as follows:

Yeas *Nays*

Lawton Chiles
John Glenn
Jim Sasser
David Pryor
Charles H. Percy
John C. Danforth
William S. Cohen
David Durenberger
Abraham Ribicoff

Proxy

Sam Nunn
Jacob K. Javits
Ted Stevens
Charles McC. Mathias

VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5—UNITED STATES CODE

Chapter 53—Pay Rates and Systems

* * * * * * *

SEC. 5313. POSITIONS AT LEVEL II.—

* * * * * * *

(25) Director, Institute for Technological Cooperation.

* * * * * * *

SEC. 5314. POSITIONS AT LEVEL III.—

* * * * * * *

(70) Deputy Director, Institute for Technological Cooperation.

* * * * * * *

SEC. 5315. POSITIONS AT LEVEL IV.—

* * * * * * *

(128) Additional officers, Institute for Technological Cooperation (2).

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[1] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

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Calendar No. 212

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-197

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1980 FOR MILITARY PROCUREMENT, RESEARCH AND DEVELOPMENT, ACTIVE DUTY, SELECTED RESERVE, AND CIVILIAN PERSONNEL STRENGTHS, CIVIL DEFENSE, AND FOR OTHER PURPOSES

REPORT

[To accompany S. 428]

ON

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1980 FOR MILITARY PROCUREMENT, RESEARCH AND DEVELOPMENT, ACTIVE DUTY, SELECTED RESERVE AND CIVILIAN PERSONNEL STRENGTHS, CIVIL DEFENSE, AND FOR OTHER PURPOSES

TOGETHER WITH

ADDITIONAL VIEWS

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

MAY 31 (legislative day, MAY 21), 1979.—Ordered to be printed.
Filed under authority of the order of the Senate
MAY 24 (legislative day, MAY 21), 1979

U.S. GOVERNMENT PRINTING OFFICE
42-853 O
WASHINGTON : 1979

COMMITTEE ON ARMED SERVICES

JOHN C. STENNIS, Mississippi, *Chairman*

HENRY M. JACKSON, Washington
HOWARD W. CANNON, Nevada
HARRY F. BYRD, Jr., Virginia
SAM NUNN, Georgia
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WILLIAM S. COHEN, Maine
ROGER W. JEPSEN, Iowa

FRANCIS J. SULLIVAN, *Staff Director*
JOHN T. TICER, *Chief Clerk*

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Calendar No. 212

[COMMITTEE PRINT]

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-197

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1980 FOR MILITARY PROCUREMENT, RESEARCH AND DEVELOPMENT, ACTIVE DUTY, SELECTED RESERVE, AND CIVILIAN PERSONNEL STRENGTHS, CIVIL DEFENSE, AND FOR OTHER PURPOSES

MAY 31 (legislative day, MAY 21), 1979.—Ordered to be printed
Filed under authority of the order of the Senate on
MAY 24 (legislative day, MAY 21), 1979

Mr. STENNIS, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany S. 428]

The Committee on Armed Services, to which was referred the bill (S. 428) to authorize appropriations during the fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and the military training student loads, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute to the text and an amendment to the title of the bill and recommends that the bill as amended do pass.

COMMITTEE AMENDMENT IN THE FORM OF A SUBSTITUTE

The committee amended the bill by striking all after the enacting clause and substituting a new bill reflecting changes as recommended by the Armed Services Committee. The committee added a new title to S. 428 incorporating the Administration's legislative proposal for authorization of appropriations for civil defense.

PURPOSE OF THE BILL

This bill would for fiscal year 1980:

(1) Authorize appropriations for (a) major procurement, (b) research, development, test, and evaluation by the Department of Defense, and (c) civil defense;

(2) Authorize the personnel end strength for each military active duty component of the Armed Forces;

(3) Authorize the personnel average strengths for the Selected Reserve of each of the Reserve components of the Armed Forces;

(4) Authorize civilian end strengths for each military department of the Department of Defense;

(5) Authorize the annual average military training student load for each of the active and reserve components of the Armed Forces;

(6) Impose certain limitations with regard to specific procurement actions and manpower strengths, provide certain additional legislative authority, make certain changes to existing law, and for other purposes.

BUDGET WAIVER RESOLUTION

The committee also reported a budget waiver resolution, in order to comply with requirement of the Congressional Budget Act (Sec. 402(a)) that all bills authorizing new budget authority be reported by May 15 preceding the fiscal year involved. The committee was not able to complete action on S. 428 by May 15 because of the lateness of congressional action on the First Concurrent Resolution on the Budget, which was not passed until May 24. The congressional budget process is further discussed on page 21–22 of the report.

OVERALL BUDGET IMPACT OF COMMITTEE BILL

The budget request for the National Defense function of the Federal budget for fiscal year 1980 is for $138,243 million in budget authority. Of this total, $40,123 million is requested for authorization of funds for procurement, research and development, and civil defense.

The bill as reported by the committee includes a recommended amount of $40,086 million for procurement, research and development, and civil defense, a decrease of $37 million below the President's request. Changes in manpower strengths and policies recommended in the bill will result in savings of $53 million from those in the President's request.

The net impact of the bill is therefore $90 million below the President's request.

BUDGET IMPACT OF COMMITTEE BILL

[In millions]

Funds authorized for procurement. R.D.T. & E. and Civil Defense	—$37
Fund impact of manpower authorization	—53
Total budget impact	—90

An overall summary of the funding and manpower provisions of the bill are presented in the following table:

SUMMARY OF FUNDS AND MANPOWER AUTHORIZED IN COMMITTEE BILL

	Fiscal year 1979 authorization[1]	Fiscal year 1980 authorization request	Committee recommendation	Change from request
Dollars (in millions):				
Procurement	$22,876	$26,473	$26,428	−$45
Research and development	12,264	13,541	13,551	+10
Civil defense	97	109	107	−2
Total funds authorized	35,236	40,123	40,086	−37
Manpower (in thousands):				
Active duty	[2] 2,040.7	2,050.0	2,047.0	−3.0
Selected Reserve	[2] 797.0	797.1	835.2	+38.1
Civilian	[2] 994.1	985.1	980.9	−4.2

[1] Excludes proposed supplemental.

[2] Actual strength as of Dec. 31, 1978.

SUMMARY OF FUNDS AUTHORIZED IN THE BILL

[In thousands of dollars]

Program	Current program			House Committee		Senate Committee	
	Fiscal year 1978	Fiscal year 1979 [1]	Fiscal year 1980 request	Change from request	Recommended	Change from request	Recommended
Aircraft:							
Army	658,700	949,709	946,400	+103,000	1,049,400	0	946,400
Navy and Marine Corps	3,528,900	4,358,700	3,967,900	+702,104	4,670,004	+424,100	4,392,000
Air Force	6,372,200	6,885,200	7,931,200	−115,010	7,816,190	+168,100	8,099,300
Subtotal	10,559,600	12,193,609	12,845,500	+690,094	13,535,594	+592,200	13,437,700
Missiles:							
Army	562,697	736,900	1,250,500	−305,700	944,800	−45,200	1,205,300
Navy	1,876,600	1,565,500	1,548,300	+57,300	1,605,600	−13,100	1,535,200
Air Force	1,797,300	1,513,500	2,288,600	−19,800	2,268,800	−74,700	2,213,900
Marine Corps	83,270	22,800	20,500	0	20,500	0	20,500
Subtotal	4,319,867	3,838,700	5,107,900	−268,200	4,839,700	−133,000	4,974,900
Naval vessels	5,780,000	3,759,600	6,173,800	+1,341,700	7,515,500	−382,200	5,791,600
Tracked combat vehicles:							
Army	1,342,763	1,402,800	1,692,500	+104,700	1,797,200	−167,500	1,525,000
Marine Corps	74,143	26,801	13,000	0	13,000	0	13,000
Subtotal	1,416,906	1,429,601	1,705,500	+104,700	1,810,200	−167,500	1,538,000
Torpedoes: Navy	317,016	313,700	267,200	0	267,200	+69,600	336,800
Other weapons:							
Army	65,800	108,300	196,400	0	196,400	−25,900	170,500
Navy	97,184	76,400	158,000	0	158,000	−5,000	153,000
Air Force		314					
Marine Corps	2,525	27,923	18,700	0	18,700	+6,500	25,200
Subtotal	165,509	212,937	373,100	0	373,100	−24,400	348,700
Total procurement, title I	22,559,098	21,748,147	26,473,000	+2,118,494	28,591,494	−45,300	26,427,700
Research, development, test, and evaluation:							
Army	2,418,327	2,635,864	2,927,000	−169,678	2,757,322	+6,900	2,933,900
Navy	[2] 4,054,309	[3] 4,483,871	[4] 4,489,341	+80,203	[4] 4,569,544	+23,955	[4] 4,513,296
Air Force	4,221,986	4,211,040	5,005,100	−64,835	4,940,265	−11,000	4,994,100
Defense agencies	754,278	892,887	1,086,600	−22,482	1,064,118	−10,000	1,076,600
Test and evaluation, defense	25,000	27,600	33,400	+9,100	42,500	0	33,400
Total R.D.T. & E., title II	11,473,900	12,251,262	13,541,441	−167,692	13,373,749	+9,855	13,551,296
Total, procurement and R.D.T. & E.	34,032,998	33,999,409	40,014,441	+1,950,802	41,965,243	−35,445	39,978,996
Civil Defense	95,000	96,500	108,800	+29,200	138,000	−2,000	106,800
Grand total	34,127,998	34,095,909	40,123,241	+1,980,002	42,103,243	−37,445	40,085,796

[1] Excludes proposed supplemental.
[2] Includes $2,430,000 for special foreign currency program.
[3] Includes $5,412,000 for special foreign currency program.
[4] Includes $5,341,000 for special foreign currency program.

SUMMARY OF MANPOWER AUTHORIZED IN THE BILL

The table below shows the changes from the requested strength for each active, reserve, and civilian component recommended by the committee:

ACTIVE DUTY MILITARY MANPOWER—FISCAL YEAR 1980

[End strengths in thousands]

	DOD request	Committee recommendation	Change from request	Percent
Army	774.0	776.7	+2.7	+0.3
Navy	528.0	524.0	−4.0	−.7
Marine Corps	189.0	189.0		
Air Force	559.0	557.3	−1.7	−.3
Total	2,050.0	2,047.0	−3.0	−.1

SELECTED RESERVE MANPOWER—FISCAL YEAR 1980

[Average strength in thousands]

	DOD request	Committee recommendation	Change from request	Percent
Army National Guard	355.7	355.7		
Army Reserve	197.4	197.4		
Naval Reserve	48.9	87.0	+38.1	+78.0
Marine Corps Reserve	33.6	33.6		
Air National Guard	92.5	92.5		
Air Force Reserve	57.3	57.3		
Coast Guard Reserve	11.7	11.7		
Total	797.1	835.2	+38.1	+5.0

CIVILIAN MANPOWER—FISCAL YEAR 1980

[End strength in thousands]

	DOD request	Committee recommendation	Change from request	Percent
Army	360.0	357.5	−2.5	−0.7
Navy/Marine Corps	304.7	305.2	+.5	+.2
Air Force	241.4	240.7	−.7	−.3
Defense agencies	79.0	77.5	−1.5	−1.9
Total	985.1	980.9	−4.2	−.4

Cost Impact of Manpower and Legislative Changes Relating to Pay and Benefits

The increases in reserve strengths will cost about $87 million above the President's request in fiscal year 1980. The changes to active duty, civilian and full-time reservists on active duty will save about $65 million in fiscal year 1980 and about $130 million per year in future years. The amendment limiting dependent travel overseas will save about $85 million in fiscal year 1980, and the amendment eliminating administrative duty pay for certain Reserve commanders will save about $2 million annually.

The total budget impact, therefore, of the manpower and legislative changes recommended by the committee is to save $53 million from the President's fiscal year 1980 request and about $130 million per year in future years.

HIGHLIGHTS OF COMMITTEE ACTION

The committee recommends a total of $40,086 million to be authorized for procurement, research and development, and civil defense for the 1980 fiscal year. The amount recommended is a reduction of $37 million to the request, as shown in the following table.

[Dollar amounts in millions]

	Authorization request	Senate committee recommendation	Difference
Fiscal year 1980:			
Procurement	$26,473	$26,428	−$45
R.D.T. & E.	13,541	13,551	+10
Civil defense	109	107	−2
Total	40,123	40,086	−37

PROCUREMENT FUNDING CHANGES

Addition of 10 Navy F–18 Fighters

Addition of $351.5 million to procure 25 rather than the 15 aircraft requested.

Addition of 6 Navy A–6E All-Weather Attack Aircraft

Addition of $88.9 million for 6 aircraft to continue production of the Navy A–6E attack aircraft.

Reduction of AWACs Funding

Denial of $68 million requested for advance procurement for future aircraft production.

NATO AWACS Bill Language

Authorizes DoD to waive certain charges and undertake certain obligations pursuant to the Multilateral Memorandum of Understanding on the NATO AWACS program.

Addition of 8 Air Force C–130H Cargo Aircraft

Addition of $79 million for procurement of 8 C–130H cargo aircraft for the Air National Guard and Reserves.

Addition of A–7K Aircraft for Air National Guard

Addition of $149.2 million for 12 two-place A–7K aircraft for the Air National Guard.

Reduction in Sparrow Air-to-Air Missile Procurement

Reduction of 120 missiles and $15.4 million to Navy Sparrow missile request and 660 missiles and $59.7 million to Air Force Sparrow missile request.

Change in Fighting Vehicle System

Addition of $55 million to fully fund Army request of 208 fighting vehicles.

Change in Army M–60 Tank Programs

Denial of Army request of $216.8 million to procure 251 new M60A3 production tanks and addition of $60 million to upgrade an equal number of M60A1 tanks to M60A3 configuration.

Deletion of Funds for the New M–728 Combat Engineer Vehicles

Deletion of $51.5 million for production of 56 CEV's, and recommendation that the vehicles be obtained by conversion of M–60 series tanks.

Approval of Navy CV Modified Kennedy-class Conventional Aircraft Carrier

Authorization of $1,760 million for modified Kennedy-class large-deck conventionally powered carrier rather than the requested CVV medium carrier at a cost of $1,617.1 million.

Denial of DDG–2 Guided Missile Destroyer Conversion

Denial of $223.8 million requested and recoupment of $55 million previously approved for DDG–2 guided missile destroyer conversion.

Deferral Without Prejudice of Navy TAGOS Program

Deferral without prejudice of $154 million of procurement of 5 TAGOS SURTASS platforms.

Denial of Funds for Navy Shipbuilding Cost Growth/Escalation

Denial of $130.2 million of $300 million requested for cost growth/escalation for ships approved in prior years.

RESEARCH AND DEVELOPMENT FUNDING CHANGES

Statutory Limitation on M–X Funds

Requires a report by October 1, 1979, on the final characteristics of the M–X missile system and requires 60-day delay thereafter before funds may be spent. Either House may block and both Houses may approve M–X funding during the 60-day period.

Addition of R. & D. Funds for Studying Laser Communications

Addition of $2 million for a joint Office of Naval Research and Defense Advanced Research Projects Agency study of the potential of blue-green laser technology for communicating with patrolling submarines.

Addition of R. & D. Funds for Cellulosic Waste/Alcohol Conversion

Addition of $3 million to accelerate the engineering scale-up of the cellulosic waste/alcohol conversion fuel program at the Natick Laboratory, Natick, Massachusetts.

Reduction of R. & D. Funds for the Air Force Bomber Defensive System Program

Reduction of $18 million requested to start a new bomber defensive system program.

Reduction of R. & D. Funds for Distant Early Warning (DEW) Radar Stations

Reduction of $5 million requested to start a $650 million program for upgrading the DEW line radar system.

Reduction of R. & D. Funds for the ELF Program

Reduction of $20 million from the fiscal year 1979 appropriation and fiscal year 1980 request because there has been no decision on where to deploy the ELF system.

Addition of R. & D. Funds for the XM–1 Tank

Addition of $17.6 million for increased preproduction testing of the XM–1, and addition of $14.2 million for development of a backup diesel engine for the XM–1.

Reduction of Navy R. & D. Funds Through Recoupment of Fiscal Year 1979 Surface Effect Ship Funds

Reduction of the total Navy R. & D. budget authority by $44 million through recoupment of unused fiscal year 1979 funds in the surface effect ship program.

Addition of R. & D. Funds for the AV–8B Program

Addition of $180 million to continue full scale development of the Marine Corps AV–8B aircraft and $5 million to continue development on an improved naval version.

Addition of R. & D. Funds for Design of a Light Aircraft Carrier

Addition of $25 million for design of a new light aircraft carrier.

Reduction of R. & D. Funds for the Army Stand-off Target Aquisition System (SOTAS) Program

Reduction of $13.5 million in the Army SOTAS program because of significant growth in the cost of the program, and uncertainty regarding which helicopter will be used.

Reduction of R. & D. Funds for the Precision Location Strike System Program

Reduction of $24.9 million in the precision location strike system program because of uncertainty over the priority of this program.

ACTIVE DUTY MILITARY MANPOWER CHANGES

Army

Increase of 2,700 above fiscal year 1980 requested end strength of 774,000 which includes an increase of 6,300 related to the deferral of the decision to withdraw combat troops from Korea, an increase of 500 to test a shorter overseas tour, and an increase of 100 for intelligence analysis offset by decreases in other overseas and foreign military sales adjustment of 900, reductions in training and support of 1,900, reduction in the number of officers of 1,000, and a reduction of 400 to maintain quality in recruiting.

Navy

Reduction of 4,000 from fiscal year 1980 requested end strength of 528,000 including reductions in training and support manpower of 3,400, in the number of officers of 100 and in overseas and foreign military sales adjustments of 600; and an increase of 100 for intelligence analysis.

Marine Corps

Approval of the fiscal year 1980 requested end strength of 189,000.

Air Force

Reduction of 1,700 from fiscal year 1980 requested end strength of 559,000 including a reduction of training and support manpower of 900, overseas and foreign military sales adjustments of 1,900, and to maintain the quality of recruiting of 300; and an increase for Airborne Command Posts of 1,300 and intelligence analysis of 100.

Dependents Travel

As part of a program to reduce the number of military dependents overseas, an amendment to discontinue payment for future travel of dependents, household goods, and automobiles for junior enlisted personnel, while maintaining military pay and other allowances.

Eliminate the Double Counting of Certain General Officers

Amendment to provide for the counting of reserve general or flag officers of all the Services, serving on active duty, against only the active duty strength authorization.

Rejection of Repeal of Restrictions on Flag and General Officers and High Grade Civilians

Rejection of the President's proposal to repeal the provision in the fiscal year 1978 Department of Defense Authorization Act requiring a reduction in the number of general officers and high grade civilians by the end of fiscal year 1980.

Officer Grade Distribution Reporting Requirement

Amendment to change the current requirement in law to require that Officer Grade Distribution Reports be included as part of the annual Manpower Requirements Report rather than separate reports.

SELECTED RESERVE MILITARY MANPOWER CHANGES

Naval Reserve

Increase of 38,100 above requested average strength to a stabilized strength of 87,000 including an increase of 1,500 reservists for full time active duty.

Other Reserve Components

Approval of the requested levels for selected reserve manpower for other reserve components.

Elimination of Administrative Duty Pay

Amendment to repeal the authority for additional pay for reserve and national guard commanders for the performance of administrative duty.

CIVILIAN MANPOWER CHANGES

Net reduction of 4,200 from fiscal year 1980 requested end strength of 985,100 includes a 2,500 reduction in Army, 700 in Air Force, and 1,500 in defense agencies and an increase of 500 in Navy/Marine Corps civilian manpower. The reductions are in support areas of 2,800, in adjustments for overseas and foreign military sales of 1,300, in the deferment of the decision to withdraw combat troops from Korea of 500 and in unfilled or transferred positions of 1,200 and offset by increases in intelligence analysis of 200, in aircraft maintenance of 1,200, in Airborne Command Posts of 100, and in ROTC programs of 100. Normal attrition should accommodate these reductions.

Civilians in Maintenance Related Activities

Amendment to require the Department to manage manpower resources to insure maintenance related activities (many of which are industrially funded) have sufficient personnel to meet funded workload requirements because of their importance to force readiness.

MILITARY TRAINING STUDENT LOADS CHANGES

Approval of the training loads, as requested, for all components with amendments to provide a separate authorized training load to be used solely for Army One Station Unit Training and to require the Secretary of Defense to adjust the other training loads to be consistent with the changes in active duty, reserve, and civilian manpower strengths authorized in the bill.

CIVIL DEFENSE

Authorizes $106,800,000 for civil defense programs, a reduction of $2,000,000.

GENERAL PROVISIONS

Amendments to Improve Military Discipline

Amends the UCMJ to improve military discipline by clarifying *in personam* courts-martial jurisdiction in cases where defects in the enlistment are alleged, and the authority of the President to promulgate the *Manual for Courts-Martial.*

Import Restrictions and Trade Sanctions Against Zimbabwe-Rhodesia

Requires the President to cease import restrictions on strategic materials and to lift trade sanctions against Zimbabwe-Rhodesia on the date of enactment of the Act or on June 30, 1979, whichever is later.

Extension of Polaris Program

Prevents the Navy from deactivating Polaris submarines for one year and mandates a thorough study of alternative means for extending their useful lives.

SAR Reporting

Makes technical changes in the Selected Acquisition Reports system.

1980 Winter Olympics

Authorizes $10 million in aid by the Department of Defense to the 1980 Winter Olympic Games, and enacts certain restrictions on the use of funds for that purpose.

SUMMARY OF REPORTS OR STUDIES REQUESTED

Procurement

1. Before any action is taken to reduce further the number of shipyards performing Navy construction, the Secretary of Navy should report to committee on impact of these actions on ability to expand U.S. shipbuilding in emergency. (p. 57.)

2. Requests plan before December 31, 1979, for cost reduction and procurement competition in Fighting Vehicle System program. (p. 65.)

Research and Development

1. Analysis of the potential of blue-green laser technology for communicating with patrolling submarines. (p. 79.)

2. Review of strategic command and control capability to include a description of a survivable system and a multi-year plan for achieving such a system. (p. 81.)

3. Report on the adequacy of the air launched and ground launched cruise missile test programs. (p. 82.)

4. Reiterates requirement that Secretary of Navy report on all options and alternatives for maintaining an adequate attack submarine force. (p. 85.)

Manpower

1. A report by the Secretary of Defense by December 31, 1979 on the implementation of committee recommendations and other management actions planned to reduce the number of dependents overseas by 10 percent from current levels by the end of fiscal year 1980 and by 30 percent within 5 years. (p. 98.)

2. Requests the Department of Defense to submit, as part of the annual Manpower Requirements Report, information reflecting the total number of DoD and individual Service active duty military personnel by regional area and country. (p. 103.)

3. A report by the Secretary of Defense by December 31, 1979, outlining the goals, planned programs, and alternatives with respect to ROTC scholarships and related programs. (p. 117.)

Civil Defense

1. Secretary of Defense should submit a written report on civil defense portion of FEMA budget to House and Senate Armed Services Committees at same time FEMA budget is submitted to Congress. (pp. 119–120.)

SUMMARY OF PROGRAM RECOMMENDATIONS

Procurement

1. Expects Air Force, in executing CRAF program, to contract for modification expenses and reasonable increased operating costs, and to provide for recovery of government investment under specified circumstances. (p. 31–32.)

2. Urges an immediate and realistic evaluation of future naval force requirements, along with increases in future requests for new ship construction. (p. 52.)

3. Intends that funds in five-year shipbuilding program for DDG–2 class modernization be retained in shipbuilding account despite shift of program to Fleet Modernization Program. (p. 54.)

4. Further TAGOS procurement should be delayed until full system is tested. (p. 54.)

5. Recommends that future shipbuilding programs contain sufficient funds to replace LSD–28s. (p. 55.)

6. Navy should make a greater effort to reduce requests for cost growth/escalation. (p. 55.)

7. Requests Navy to make every effort to ensure DDX will reflect innovative concepts. (p. 57.)

8. Endorses Army efforts to improve posture of U.S. NATO ground forces. (p. 62.)

9. Recommends improved management and cost control in Fighting Vehicle System. (p. 65.)

10. Encourages Department of Defense to vigorously explore new procurement methods to reduce costs of major systems. (p. 73.)

Research and Development

1. Recommends Administration make a decision on the ELF system. (p. 83.)

2. Anticipates that none of the funds authorized or reprogrammed for fiscal year 1980 will be used for full-scale development of the ELF system. (p. 83.)

3. Urges Administration to proceed to improve capability of communicating with patrolling submarines. (pp. 83–84.)

4. Urges Administration to present Congress promptly a clear plan of action to address ICBM vulnerability. (p. 84.)

5. Urges that anti-stand-off jammer missile initiative be jointly undertaken by Services and thoroughly examine existing systems. (p. 88.)

6. Urges more in-house technical direction in vertical launch system development. (p. 89.)

7. Recommends that only one new missile be developed to replace Sparrow in both air-to-air and surface-to-air roles. (p. 90.)

Manpower

1. Recommends a test by the Army of an 18-month tour for single or unaccompanied soldiers overseas including a review of current policies with regard to unit rotation. (p. 97.)

2. Fully supports the expansion of One Station Unit Training requested in the President's budget, including the full implementation of Infantry One Station Unit Training in fiscal year 1980. (p. 100.)

3. Recommends that a policy to recall veterans first to active duty in case of an emergency be rejected. (p. 103.)

4. Requests no further changes be made in categories used in annual Manpower Requirements Report until effect of changes has been fully explored with committee. (p. 103.)

5. Recommends that all Reserve components be included in the authorization request for Reservists on full-time active duty in a consistent manner. (p. 106.)

6. The Secretary of Defense and the Secretary of Navy should make greater use of Naval Reserve components in support of active duty missions. (p. 106.)

7. Critical types of units such as deployment related units, aviation, ship and aircraft maintenance, intelligence and other highly professional skills should be retained in the Naval Reserve force structure consistent with modernization programs and 17 Naval Reserve Mobile Construction Battalion should be retained. (p. 107.)

8. Any changes made to the ship overhaul program should not result in declines in productivity, declines in workload or increased costs. (p. 115.)

9. The Secretary of Defense should use the authority to exceed the civilian authorization by 1¼ percent if some of the efficiencies included in the budget request for productivity improvements and for contracting out cannot be met. (p. 115.)

10. Recommends an increased allocation of 30 two-year scholarships to military junior colleges. (p. 118.)

Civil Defense

1. FEMA Administrator should consult with the Secretary of Defense on civil defense aspects of budget. (p. 119.)

2. FEMA should include in future budget submissions a two-year program as required by the Congressional Budget Act. (p. 120.)

GLOBAL PERSPECTIVES

Introduction

Under the Constitution of the United States, the Federal Government is given the responsibility to "provide for the common defense." If the future well-being of the Nation is to be assured, the Federal Government must be able to provide for the safety and security of the American people and to protect their worldwide interests. This basic fact should be foremost in the debate as resources are allocated to the various competing demands facing the Federal Government.

U.S. military forces still have an overall advantage compared to the forces of potential enemies; however, this margin of superiority has been substantially reduced in recent years. Moreover, trends in the worldwide military balance appear to be unfavorable to the United States and its allies.

The Free World continues to have serious strategic vulnerabilities; key among these is the dependence on imported oil. In general, the Free World is becoming increasingly dependent on the free movement of raw materials and goods to and from Third World nations. Political or military actions that disrupt or threaten to disrupt this flow of materials can have a serious impact on the economies of the industrialized nations and of the world as a whole.

In essence, world events are becoming more complex and interdependent. This growing interdependence has increased the potential harm to U.S. and allied interests that could be caused in many regions by the use or threat of use of relatively small military units equipped with sophisticated weapons. The United States needs to evaluate its ability to meet the military challenges of this more interdependent, changing world. This does not lessen the need to deter the much more militarily destructive forms of warfare such as a conventional attack in Western Europe and, in particular, a strategic nuclear conflict that would spell unparalleled disaster for all nations.

Growth in Soviet Military Strength

The Soviet Union continues to modernize its forces at an alarming rate. The Central Intelligence Agency has estimated that the Soviet defense budget has exceeded U.S. spending by an average of 10 percent per year over the past 10 years. Of particular concern is that Soviet military spending has recently begun to outrun U.S. spending by a substantial margin. In 1978, it is estimated that the Soviet Union outspent the United States by about 40 percent. Over the last 5 years, the disparity in annual U.S. and Soviet defense spending has been impressively large in two mission areas: Soviet spending for strategic forces exceeded that of the United States by 3 to 1 and for general purpose forces, by 1.75 to 1. During this period, Soviet military investment (procurement and construction) has been 50 to 80 percent above

U.S. levels, for a total of about $100 billion in 5 years. The United States must consider the possibility that the Soviets are intent on seriously challenging the United States throughout the world and on exploiting our vulnerabilities and those of our allies where it can.

While there has been some Soviet growth in the numbers of military units and quantities of equipment, there has been major improvement in the quality of weapons fielded by the Soviet Union. In the past, the United States had planned to offset Soviet quantitative advantages in weapons with technologically superior systems in the hands of U.S. forces. Massive defense expenditures have enabled the Soviet Union to narrow our technology lead and have provided the Soviets with superior weapons in several key areas. Of particular concern to the committee is the serious possibility of substantial Soviet technological innovations in the immediate future resulting from the heavy investments of the past several years. The committee continues to support a strong U.S. military research and development program to exploit our broad technological superiority.

While the Soviet Union has made improvements to its strategic forces, theater nuclear forces, and conventional forces in Eastern Europe, it has apparently placed significant emphasis on improving its projection forces which could intervene in Third World affairs. These include a blue water navy, modernized sealift, expanded and modernized airlift, together with airborne and marine combat units. The growth in Soviet intervention forces is particularly troublesome in light of the Free World's dependence on commerce with developing nations and the focus on NATO programs that has occupied recent U.S. defense efforts. While Soviet intervention forces are currently inferior to similar U.S. forces, U.S. forces are tied down by regional commitments, especially for NATO, and also suffer the disadvantage of having to deploy over greater distances to likely trouble spots (i.e., Persian Gulf and Korea) than would be the case for Soviet forces.

Defense Spending

The key question posed by defense spending trends unfavorable to the United States is how long will it take before our major military competitor realizes meaningful military and political advantages that will alter the worldwide balance of power.

Recognizing the seriousness of adverse spending trends, the United States Government agreed with our NATO allies to increase total defense spending by 3 percent in real terms beginning with fiscal year 1979. In its first year this commitment may go unfulfilled, depending on the rate of inflation that finally occurs, by seven NATO countries including the United States.

The Free World has the economic resources to compete on military terms with the Soviet Union; less certain is the political will to commit these resources to needed military programs. Trends in national economic resources and defense efforts are as follows. U.S. levels are used as the base in each year in order to show trends relative to the United States.

SOVIET, JAPANESE AND NATO GNP'S AND DEFENSE SPENDING AS A PERCENTAGE OF U.S. LEVELS

	1950		1960		1970		1978	
	GNP	Defense spending	GNP	Defense spending	GNP	Defense spending	GNP	Defense spending
United States	100	100	100	100	100	100	100	100
U.S.S.R.	30	NA	32	71	32	90	47	140
Japan	4	0.3	8	1	21	2	48	9
NATO (less United States)	50	57	64	34	80	34	102	70

Sources: Central Intelligence Agency, Department of Defense, and International Institute for Strategic Studies.

This chart shows the growth in Soviet defense spending. In 1970, the Soviet Union's defense expenditures were only 90 percent of the U.S. level; by 1978, the Soviets were outspending the United States by about 40 percent. In addition, major U.S. allies are making defense contributions significantly less than their economic resources should permit.

In general the committee believes that the United States should increase its defense spending in real terms for the next few years. At the same time, our allies in Europe and Asia must assume a greater share of their defense burdens.

The Strategic Balance and SALT

One of our key national security goals is maintaining essential equivalence in strategic forces with the Soviet Union. The committee is concerned about our long-term strategic deterrent and therefore the committee supports the development of a more survivable ICBM, such as MX, among other key strategic programs.

The committee continues to view the three legs of the Triad—air-breathing, submarine-launched, and land-based—as important to our deterrent in that they force our adversaries to plan for three quite different and separate retaliatory threats.

The committee plans to carefully review the SALT II Agreement with the Soviet Union, announced by Secretary Vance on May 9, 1979, in the context of the overall U.S.-USSR military balance.

The Maritime Balance

While equivalence with the Soviet Union may be our goal for strategic forces, it cannot be our goal for U.S. naval forces. The United States should be committed to maintaining a clear margin of maritime superiority.

The United States and the Free World depend extensively on the world's sea lanes for the movement of trade and critical raw materials. Several of these areas are located at great distances from both the United States and its allies (i.e., Indian Ocean and Persian Gulf). Furthermore, our key alliances are with countries that are also separated from us by vast oceans.

Our Navy must be able to protect the free movement of commerce and the waterborne reinforcement of our allies. This task is made considerably more difficult by geography—the great distances from the United States to these areas. Because the Soviet Union has no such dependence on the seas, it is significantly less vulnerable in this regard.

Moreover, the Soviet Union would have the advantage of selecting the place and timing of an attack on the vast, important waterways that we seek to defend. If the Soviet Union can equal our naval power, it could deny access to selected areas and thereby gain significant strategic leverage over the United States and its allies.

The shipbuilding claims problem that has plagued our maritime program for a number of years is now behind us. Also on a positive note, a consensus is emerging on the need for more ships for the U.S. Navy. Unfortunately, there is still little consensus on specific ship types or on starting a vigorous ship construction program. Another year has passed without starting on a naval modernization program. The committee is convinced that the shipbuilding program for 10 combatants recommended for fiscal year 1980 and the proposed 5-year shipbuilding plan are inadequate to provide our Navy with the ships needed for the maritime tasks of the future. A vigorous shipbuilding program should be developed that can command a broad base of support.

NATO

For the past 5 years, the committee has placed great emphasis on defense programs oriented to NATO. While improvements have been made by both the United States and other NATO countries, much still needs to be done to insure the continuing strength of the Alliance. First, the Alliance must increase its real defense spending at a rate that would permit it to modernize its forces sufficiently to meet the growing capabilities of the Warsaw Pact. Second, better ways to accomplish rationalization, standardization, and interoperability of NATO forces must be found. Last, the Southern Flank of NATO continues to need strengthening and cohesion.

U.S. defense expenditures have been heavily oriented to NATO since fiscal year 1974. During the period 1974–1980, U.S. expenditures for forces deployed in Europe together with early and later NATO reinforcements will have increased in real terms at an average annual rate of 3.3 percent. Moreover, the bulk of increases have gone to improving combat power for a NATO conflict. Investment in equipment and facilities for these NATO-oriented forces has increased in real terms at an annual rate of 6.4 percent since fiscal year 1974. Most importantly, real-term investment in equipment and facilities for our front-line, Europe-deployed forces has grown at an average of 11.0 percent each year since fiscal year 1976. Our NATO allies should be made aware of the substantially increased investments that the United States has made in its NATO-based forces.

The United States has paid a price for improvements in NATO warfighting capability. All other U.S. forces, including those for other contingencies, have had a lower total expenditure, averaging a 1.5 percent annual reduction, between 1974 and 1980. Continued deterioration of these other forces would be of concern especially in light of Soviet improvements in intervention forces and the increasing dependence of the Free World on Third World material resources. Real increases in total U.S. spending are necessary if we are to maintain the balanced forces needed to protect our worldwide interests.

While repeal of the Turkish arms embargo removed an impediment to improvements of the Alliance effort in the Eastern Mediterranean, the substantial economic problems of Turkey and the slow pace of international economic assistance to that country are of concern. These economic problems are challenging the stability of the Turkish Government. The role that Turkey plays in the security of the Western World has been heightened by the change of governments in Iran. For this reason, instability in Turkey would be a serious problem for NATO.

Middle East and Persian Gulf

This region is one of the world's most important and volatile areas. The peace treaty between Egypt and Israel is a significant start in the search for peace between Israel and its Arab neighbors. However, problems yet to be overcome are significant.

The overthrow of the Shah of Iran and other developments have heightened tensions throughout the region. In response, U.S. friends in the region are seriously questioning U.S. staying power. Moreover, this area may be a key target for the intervention forces that the Soviet Union is developing.

The recent need to send additional U.S. military units, particularly naval forces, to the Persian Gulf area has highlighted the extent to which our forces are already stretched thin. To provide this increased presence, drawdowns from other key world areas were required.

Asia and the Pacific

Despite full normalization of relations between the United States and the People's Republic of China, our relations with Japan remain the cornerstone of American security efforts in Asia. Japan is now the second ranking economic power in the world with a pivotal role in Asian affairs.

Diplomatic ties between the United States and China have greatly improved stability in Asia. However, Asia still contains one of the greatest trouble spots in the world: the Korean Peninsula. The committee remains concerned that the planned withdrawal of the U.S. 2nd Infantry Division from South Korea—temporarily suspended by the Administration—could increase tensions and the likelihood of hostilities on the peninsula.

BUDGET PERSPECTIVES

The budget authority recommended by the committee for the Department of Defense for fiscal year 1980 represents a small increase in real terms (with the impact of inflation removed) over the fiscal year 1979 level. The committee considers this level of increase to be required by our national security needs and the threats facing the United States in the coming years. To put this increase into perspective, however, the following table shows that the Nation continues to spend less for national defense now than it did in fiscal year 1964, when both are expressed in constant fiscal year 1980 dollars.

DEPARTMENT OF DEFENSE BUDGET AUTHORITY

[In billions of dollars]

	Current dollars	Constant fiscal year 1980 dollars
Fiscal year:		
1964	49.6	137.5
1978	115.3	130.5
1979[1]	123.0	130.4
1980 request	135.0	135.0

[1] Excludes fiscal year 1979 supplemental authorization request.

Another way of considering the overall impact of our defense spending is to examine the defense budget as a percentage of gross national product. This analysis shows that the United States continues to provide for its defense needs in fiscal year 1980 with a far smaller proportion of the national output of goods and services than in the past. In fiscal year 1964, for example, the defense budget represented 8.0 percent of the gross national product. In fiscal year 1976, the figure was 5.4 percent; in fiscal year 1980, it is projected to total approximately 4.9 percent. While the percent of gross national product allocated to defense spending has been reduced, the percent allocated to social and economic spending by the Federal Government has increased from 17 to 25 percent since 1964. Between 1965–1978, defense spending rose by 125 percent (less than the inflation rate). By comparison Federal outlays for health have risen 2,400 percent; housing programs by 2,800 percent; social service programs, 1,900 percent; welfare, 700 percent; and job programs, 1,600 percent.

Changes in the Defense Budget by Appropriation Category

Spending for national defense can be divided into two broad categories: operating costs, which include the cost of operating and maintaining equipment and the costs of military and civilian personnel; and investment, which encompasses funds spent for new equipment, research and development, and military construction. The cost of operating existing forces takes 61 percent of every defense dollar. That leaves only about 39 cents of each dollar for investment to buy equipment and facilities for the future. The following chart shows that the percentage of defense expenditures allocated to investment will increase slightly in fiscal year 1980, but is still substantially below the percentage of fiscal year 1964. Operating costs have increased correspondingly over this period, largely due to increases in manpower costs—military, civilian, and retired pay.

Inflation and the rising unit costs of equipment have increased absolute defense spending dramatically in recent years without increasing the number of military units or quantities of equipment. For example, though the budget for fiscal year 1980 is 82 percent larger than that for 1970 (almost the percentage increase in inflation), it supports fully one million fewer men and women in uniform, approximately 300 fewer ships, and approximately 4,000 fewer aircraft. Procurement trends also show a decline as substantially higher unit costs have reduced the numbers of equipments that can be purchased. For example, in fiscal year 1970, the Congress appropriated $721 million to purchase 197 Navy and Marine Corps combat aircraft. This bill provides $2,150 million in fiscal year 1980 to purchase Navy and Marine Corps combat aircraft, but only 78 aircraft can be purchased with this amount. The average unit cost has grown by about 750 percent. Clearly, ways must be found to make our defense dollars go further.

DEPARTMENT OF DEFENSE BUDGET AUTHORITY

[Dollar amounts in billions]

	Fiscal year 1964		Fiscal year 1978		Fiscal year 1979[1]		Fiscal year 1980 request	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of tota.
Operating costs	$25.9	52	$71.4	62	$76.6	62	$82.4	61
Investments	23.7	48	43.9	38	46.5	38	52.7	39
Total	49.6	100	115.3	100	123.0	100	135.0	100

[1] Excludes fiscal year 1979 supplemental authorization request.

Changes in the Budget by Military Program

Strategic forces continue to consume a far smaller percentage of the total than in fiscal year 1964. In recent years that percentage has been about 8 percent of the total. Spending for general purpose forces rose slightly in fiscal years 1978 and 1979, and this trend continues in the fiscal year 1980 request. This increase reflects the focus during the last few years on improving conventional forces, particularly in NATO. Funds devoted to auxiliary and support forces are greater in fiscal year 1980 than in fiscal year 1964, reflecting the increasing complexity of modern weapons and the increases in manpower costs noted previously. The percentage of the budget devoted to support functions declines slightly, however, from fiscal year 1979 to fiscal year 1980. The committee continues to give considerable attention to reducing the costs of supporting functions, where that can be done consistent with needs for readiness.

DEPARTMENT OF DEFENSE BY PROGRAM—TOTAL OBLIGATIONAL AUTHORITY

[Dollar amounts in billions]

	Fiscal year 1964		Fiscal year 1978		Fiscal year 1979[1]		Fiscal year 1980	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percen of tota
Strategic forces	$8.5	17	$9.1	8	$8.6	7	$10.8	8
General purpose forces	16.4	33	42.5	36	46.3	37	50.0	37
Auxiliary and support forces	24.7	50	64.8	56	68.7	56	74.8	55
Total	49.6	100	116.5	100	123.6	100	135.5	100

[1] Excludes fiscal year 1979 supplemental authorization request.

Changes in the Budget by Defense Component

No major shifts in the percentages of the defense budget allotted to each of the military services is apparent in the fiscal year 1980 budget, as the following table shows. In comparison with fiscal year 1964, the shares of the budget devoted to retired pay and to the Navy have increased; the share devoted to the Army has remained constant; and the share devoted to the Air Force has decreased largely reflecting the decline in spending for strategic forces.

DEPARTMENT OF DEFENSE BY COMPONENT—TOTAL OBLIGATIONAL AUTHORITY

[Dollar amounts in billions]

	Fiscal year 1964		Fiscal year 1978		Fiscal year 1979 [1]		Fiscal year 1980 request	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Army	$12.3	25	$28.9	25	$31.3	25	$33.2	25
Navy	14.5	29	39.6	34	40.5	33	43.3	32
Air Force	20.0	40	33.1	28	34.7	28	38.4	28
Retired military pay	1.2	2	9.2	8	10.3	8	11.5	8
Other	1.7	3	5.6	5	6.8	6	9.1	7
Total	49.6	100	116.5	100	123.6	100	135.5	100

[1] Excludes fiscal year 1979 supplemental authorization request.

Budget Projections

The committee is concerned that the Department of Defense may have again developed inconsistent plans for future defense spending. The committee expressed this concern in its report last year; apparently no progress has been made in this problem area. This year, for example, the fiscal year 1981 authorization request that was required by law to be submitted with the fiscal year 1980 request appears inconsistent with the President's 5-year budget projections. The fiscal year 1981 authorization request projects increases in procurement and research and development of $7.9 billion, and the Department estimates that increases in military, civilian, and retired pay will cost an additional $4.6 billion, for a total of $12.5 billion above fiscal year 1980 levels. This does not take into account other increases and allowances for inflation. But the President's 5-year projections for the total defense budget include a figure for 1981 that represents only an overall increase of $10.4 billion above fiscal year 1980.

This inconsistency in out-year budget projections can cause unnecessary instability in procurement and manpower programs. It can also lead to higher unit costs for equipment if decisions are made to start production of a number of different weapon systems based on economical rates of production, but in later years production quantities must be stretched out to stay within budget limits. This was a major concern of the committee in reviewing the Army procurement program. Further efforts are needed to coordinate the program planning process with projected spending levels for future years so that these problems may be avoided and the Congress may obtain a realistic picture of future procurement rates.

Congressional Budget Process

Several serious problems continue to arise in the congressional budget process. First, and perhaps most important, the period from first presentation of the President's budget in mid-January to the May 15 deadline for reporting all authorizing legislation is too short for thorough consideration of all the facets of the budget, particularly in so vast and complex an area as defense procurement, research and development, and manpower authorization. This committee must analyze, conduct hearings on, and report three separate bills totaling over $100 billion in this relatively short period, leaving very little time for related oversight or for consideration of other important legislation during this period.

Second, there continues to be confusion over the initial estimates made by the authorizing committees by March 15 of each year, which form the basis for the first concurrent resolution on the budget. This estimate must be made early in the process of analyzing the budget, and is not intended to involve an analysis of individual programs or groups of programs. Congress should give additional consideration to developing clearer criteria for judging the appropriateness of the March 15 estimates by each committee.

Third, the first concurrent resolution, which was intended to guide the committees in their markup of authorization bills, was again not passed by both houses in time to be of use as a guide to action. The conference report on the first concurrent resolution was not approved until after the May 15 deadline, leading to the need for a budget waiver resolution for this bill.

As a final point, the committee desires to emphasize the need for the Budget Committee to avoid line-item review of budgets. Such review is not only inappropriate, in light of the work of the authorizing and appropriating committees, but also slows the major congressional effort of reviewing overall budget levels.

The committee continues to feel that the Budget Act schedule ought to be reconsidered in order to insure that there is more time between the passage of the first concurrent resolution and the reporting date for authorization bills. Only then will a meaningful process of control over the general level of expenditures be established.

U.S. MILITARY FORCE STRUCTURE

The following table shows the force structure of U.S. active military forces for selected years, in order to provide perspective on the budget request for fiscal year 1980. Estimated figures are given for the end of the current fiscal year and for the end of fiscal year 1980. For comparison, similar figures are provided for fiscal years 1964 and 1978. To complete this general overview of the size and structure of American active military forces, a summary of inventories of major equipment is provided for each year. The summary shows graphically that little or no change in the level of our active forces has occurred in recent years, and that U.S. forces are well below 1964 levels in many categories.

SUMMARY OF SELECTED ACTIVE MILITARY FORCES

	Actual		Estimated	
	June 30, 1964	Sept. 30, 1978	Sept. 30, 1979	Sept. 30, 1980
Strategic forces:				
Intercontinental ballistic missiles:				
Minuteman	600	1,000	1,000	1,000
Titan II	108	54	54	54
Polaris-Poseidon-Trident missiles	336	656	656	656
Strategic bomber squadrons	75	25	24	24
Aircraft (UE)[1]	1,115	382	376	376
Manned fighter interceptor squadrons	40	6	6	6
General purpose forces:				
Land forces:				
Army divisions	16	16	16	16
Combat brigades	56	52	52	50
Marine Corps divisions	3	3	3	3
Regiments	12	12	12	12
Tactical air forces:				
Air Force wings	21	26	26	26
Aircraft (UE)	1,712	1,680	1,638	1,740
Navy attack wings	15	12	12	12
Aircraft (UE)	1,212	738	850	855
Marine Corps wings	3	3	3	3
Aircraft (UE)	510	446	446	436
Naval forces:				
Attack and ASW carriers	24	13	13	13
Attack submarines (nuclear and diesel)	104	80	80	82
Other warships	281	160	160	176
Amphibious ships	133	64	65	63
Airlift and sealift forces:				
Strategic airlift squadrons:				
C–5A squadrons	0	4	4	4
Aircraft (UE)	0	70	70	70
C–141 squadrons	0	13	13	13
Aircraft (UE)	0	234	234	234
Tactical airlift squadrons:				
C–130 squadrons	28	15	14	14
Aircraft (UE)	436	234	218	218
Troopships, cargo ships, and tankers	100	48	47	47
Equipment inventories:				
Total Army tanks	2,205	6,419	7,344	8,236
Total Navy ships	917	453	455	462
Total Navy aircraft	8,391	5,432	5,534	5,185
Total Air Force aircraft	12,689	7,121	7,031	7,173

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[1] UE (unit equipment) is aircraft provided for the performance of a flying mission.

TITLE I—PROCUREMENT

Background on Procurement Authorization

In 1959, Section 138, Title 10. United States Code, was amended by enactment of section 412(b) of Public Law 86–149 which required annual congressional authorization of appropriations for the procurement of aircraft, missiles and naval vessels. Subsequently, the law has been amended to add additional categories of weapons to the process of annual authorization, including tracked combat vehicles in 1965, other weapons in 1969, and torpedoes and related support equipment in 1970.

The committee held hearings on tactical air programs in the fiscal year 1980 procurement request on March 7, 8, 15, 20, and April 2; and on Navy shipbuilding programs in the fiscal year 1980 procurement request on March 28 and April 5. In addition, the Subcommittee on General Procurement held hearings on the remaining fiscal year 1980 procurement programs on April 6, 9, 10, and 11. Based on testimony and other information provided to the committee in support and justification of programs, an exhaustive review of procurement programs and requirements has been made. Committee recommendations appear in subsequent pages of this report.

Summary of Recommended Funding Changes

The tables below show a comparison of the amount appropriated for procurement for fiscal year 1979 with amounts requested for authorization in the President's budget for fiscal year 1980 and those recommended by the committee.

SUMMARY OF ADJUSTMENT TO FISCAL YEAR 1980 PROCUREMENT AUTHORIZATION REQUEST BY WEAPON SYSTEMS

[In thousands of dollars]

	Fiscal year 1979 appropriation[1] current	Fiscal year 1980 request	Committee adjustment	Committee recommendation
Aircraft	12, 193, 609	12, 845, 500	+592, 200	13, 437, 700
Missiles	3, 838, 700	5, 107, 900	−133, 000	4, 974, 900
Naval vessels	3, 759, 600	6, 173, 800	−382, 200	5, 791, 600
Tracked combat vehicles	1, 429, 601	1, 705, 500	−167, 500	1, 538, 000
Torpedoes	313, 700	267, 200	+69, 600	336, 800
Other weapons	212, 937	373, 100	−24, 400	348, 700
Total procurement	21, 748, 147	26, 473, 000	−45, 300	26, 427, 700

SUMMARY OF ADJUSTMENT TO FISCAL YEAR 1980 PROCUREMENT AUTHORIZATION REQUEST BY SERVICE

[In thousands of dollars]

	Fiscal year 1979 appropriation[1] current	Fiscal year 1980 request	Committee adjustment	Committee recommendation
Army	3, 197, 709	4, 085, 800	−238, 600	3, 847, 200
Navy (including Marine Corps)	10, 151, 424	12, 167, 400	+99, 900	12, 267, 300
Air Force	8, 399, 014	10, 219, 800	+93, 400	10, 313, 200
Total procurement	21, 748, 147	26, 473, 000	−45, 300	26, 427, 700

[1] Excludes proposed supplemental.

AIRCRAFT

Aircraft and Helicopter Inventory

The following table summarizes Air Force, Army, Navy, Marine Corps aircraft and helicopter inventories:

AIRCRAFT AND HELICOPTER INVENTORY

	Fiscal year 1964		Fiscal year 1968		Fiscal year 1979		Fiscal year 1980	
	Active	Reserve	Active	Reserve	Active	Reserve	Active	Reserve
Strategic	2, 425	177	1, 380	383	560	81	556	80
Air Force:								
Bombers	1, 509	2	779	0	417	0	415	0
Strategic interceptors	916	175	601	383	143	81	141	80
Fighter/attack	5, 871	1, 222	6, 753	640	5, 399	1, 210	5, 641	1, 251
Army attack helicopters	0	0	304	0	840	10	895	17
Navy/Marine Corps aircraft	3, 249	342	3, 065	279	2, 059	262	2, 064	264
Air Force aircraft	2, 622	880	3, 384	361	2, 500	938	2, 682	970
Patrol/reconnaissance/ electronic warfare	2, 041	461	2, 332	400	1, 318	392	1, 304	406
Army aircraft	164	0	211	0	159	69	171	67
Navy/Marine Corps aircraft	1, 282	269	1, 112	233	770	131	775	148
Air Force aircraft	595	192	1, 009	167	389	192	358	191
Airlift/tanker	3, 840	1, 082	3, 500	827	1, 624	620	1, 576	593
Navy/Marine Corps aircraft	515	71	475	75	256	60	207	28
Air Force aircraft	3, 325	1, 011	3, 025	752	1, 368	560	1, 369	565
Utility/Support/Other	12, 236	1, 384	16, 713	1, 205	9, 240	3, 738	8, 927	3, 391
Army:								
Aircraft	2, 062	663	1, 772	397	285	82	260	92
Helicopters	3, 107	342	7, 294	487	4, 292	2, 870	4, 320	2, 901
Navy/Marine Corps:								
Aircraft	2, 191	103	2, 394	86	1, 119	69	944	46
Helicopters	1, 154	11	1, 445	34	1, 330	122	1, 195	120
Air Force:								
Aircraft	3, 321	265	3, 343	201	1, 983	195	1, 994	201
Helicopters	401	0	465	0	231	40	214	31
Total, aircraft	21, 751	3, 973	21, 170	2, 934	11, 448	2, 639	11, 380	2, 652
Total, helicopters	4, 662	353	9, 508	521	6, 693	3, 042	6, 624	3, 069

Committee Action on Aircraft Procurement

The following table summarizes the committee's recommendations on aircraft procurement. The discussion which follows explains the committee's action in each of the various categories of aircraft. The detailed charts following the aircraft section relate the committee's action to the corresponding appropriation account.

COMMITTEE ACTION ON AIRCRAFT PROCUREMENT

[In millions]

	Army		Navy/Marine Corps		Air Force		Total aircraft procurement	
	Request	Recommended	Request	Recommended	Request	Recommended	Request	Recommended
Strategic			96.1	96.1			96.1	96.1
Tactical fighter/attack			1,318.2	1,758.6	3,383.4	3,532.6	4,701.6	5,291.2
Patrol/reconnaissance electronic warfare			675.4	659.4	314.0	246.0	989.4	905.4
Airlift/tanker					178.5	257.5	178.5	257.5
Utility/support/other	355.8	335.8	185.4	185.4	43.0	43.0	584.2	584.2
Modifications	442.2	442.2	781.4	718.1	1,575.1	1,590.1	2,798.7	2,813.4
Spares/repairs	71.5	71.5	656.6	656.6	1,017.8	1,017.8	1,745.9	1,745.9
Support equipment and facilities	76.9	76.9	254.8	254.8	1,419.4	1,412.3	1,751.1	1,744.0
Total	946.4	946.4	3,967.9	4,392.0	7,931.2	8,099.3	12,845.5	13,437.7

Observations on Tactical Aircraft

In the committee's view, the services are moving generally in the proper direction toward modernization of their tactical aircraft and weaponry. The Air Force is well along in this effort with its newer F-15 and F-16 fighter aircraft and the A-10 close air support aircraft. The Navy is beginning production of its F-18 aircraft to complement the F-14 and the Army is progressing with its new attack helicopter. Since this helicopter is not yet ready for production the committee will have further opportunity to review the program before a decision on the final direction of the Army's future helicopter force.

Progress can be seen on other fronts as well. The services have quite properly recognized the importance of all-weather and night capabilities for future aircraft procurement. However, the commmittee is concerned over the potential cost for these capabilities and the need to establish realistic requirements. The Navy and Air Force are moving quickly to resolve their fighter engine problem which is a major concern to the committee, and are attempting to retain competition in the aircraft engine industry with their effort. Progress is also being made in upgrading the missiles and support requirements needed to make the tactical air an effective force to meet the projected threat.

The committee is still concerned about the continued technological sophistication projected in combat support equipment such as tactical reconnaissance and surveillance, command and control, electronic warfare and defense suppression. While these basic capabilities are undoubtedly necessary for successful mission accomplishment, the complexity and potential proliferation of this weaponry will be absorbing the major amount of the tactical air investment budget in the near future.

The committee also continues its great concern over the readiness of these sophisticated weapons. This year the Navy testified that improved readiness of their aircraft had resulted from the emphasis and funding applied by the Congress and the Defense Department in the past few years; specifically, it reported over 360 aircraft additionally mission capable last year. These aircraft help to offset the retirements and reduced procurements that the Navy experienced.

Lastly, the committee believes that emphasis should be placed on continued improvements in procurement practices for tactical air weaponry. With the tightening of the defense dollar and the many differing demands on the budget, wise and prudent spending should be the watchword to maintaining a formidable tactical air capability.

TACTICAL FIGHTER/ATTACK AIRCRAFT

Committee Recommendations for Changes

F/A-18

The procurement budget included a request for $574.6 million for 15 F/A-18 aircraft and $91.5 million for advanced procurement for 48 F/A-18 aircraft in fiscal year 1981. The committee was of the opinion that a build-up in the production quantity early in the program would improve the F/A-18 production learning process and help to produce these aircraft in a more efficient manner. The committee, therefore, added $351.5 million for 10 additional F/A-18 aircraft to the fiscal year 1980 procurement budget to promote production efficiencies.

A-6E

The Navy made no request for funding for the A-6E aircraft this year because of funding constraints in the Navy aircraft budget. The A-6E is an all weather attack aircraft that is used by both the Navy and Marine Corps. The committee has added $88.9 million for 6 A-6E aircraft to the fiscal year 1980 budget in order to allow the production line for this aircraft to remain open.

A-7K

The fiscal year 1980 budget included no funds for A-7K aircraft. Last year 12 of these two-place trainer aircraft were approved for the Air National Guard. The Air National Guard requirement for these aircraft is stated at 42 aircraft. The committee is of the opinion that the Air National Guard capabilities should be improved and therefore added funding of $149.2 million for 12 A-7K aircraft to the fiscal year 1980 budget request.

Recommended for Approval as Requested

Navy and Marine Corps

F-14

The F-14 is a high performance, air superiority/fleet air defense fighter capable of air-to-air combat and air-to-surface attack missions.

Air Force

A-10

The A-10 is a single place, twin jet aircraft design for a close air support role. It will provide supporting fire with conventional bombs, missiles, and a 30mm anti-armor gun in close proximity to friendly ground forces.

F–15

The F–15 is a twin engine, single crew, air superiority fighter. It is designed for the counter air mission to defeat any enemy threat to United States' dominance in the air combat area.

F–16

The F–16 is a multimission single seat, single engine fighter. It will modernize United States and some of the NATO countries' tactical air forces.

PATROL/RECONNAISSANCE/ELECTRONIC WARFARE AIRCRAFT

Committee Recommendations for Changes

Air Force

AWACS

The AWACS is a modified Boeing 707 aircraft equipped with a radar system communications equipment, and command and control equipment. It has the capability for long range detection and tracking of aircraft operating at high or low altitudes over both land and water.

The procurement funding request in the fiscal year 1980 budget for the AWACS program contained $246 million for the procurement of 3 AWACS aircraft. The request also included $68 million advanced procurement funding for 3 additional aircraft planned in fiscal year 1981 and $18.7 million for initial spares funding. The committee has earlier expressed the view that 25 AWACS, including the United States share of the NATO AWACS program, should satisfy requirements. The committee recommends approval of the 3 aircraft requested in the fiscal year 1980 budget, which together with the refurbishment of the 3 R. & D. aircraft will provide the Air Force with 28 AWACS aircraft exclusive of the United States' share of the NATO AWACS program. The AWACS aircraft's demonstrated performance will provide the United States with a fine capability for long range detection and tracking of aircraft over both land and water.

The committee recommends, however, deletion of the $68 million advanced procurement funding towards any further procurement of the AWACS aircraft for the Air Force. This is consistent with the committee's prior position that these additional planned aircraft are not required, particularly in view of the NATO AWACS and NIMROD procurements.

This action does not preclude further review of the program quantities in subsequent years if justification can be presented to support more than 28 U.S. AWACS aircraft for the Air Force.

NATO AWACS

The Defense Department included $250.2 million in the fiscal year 1980 request as the United States share of the NATO AWACS cooperative program for fiscal year 1980. The committee found that $7.1 million of this proposed cost was to pay for costs such as administrative charges that are normally applicable to foreign military sales but are to be waived in this program. The committee does not believe that these costs are a proper funding charge to the defense procurement authorization bill and deleted these funds from the request.

NATO AWACS Bill Language

In authorizing funds for the United States share of the fiscal year 1979 NATO AWACS program in the 1979 Supplemental Authorization bill, the committee added provisions granting to the Department of Defense the authority to waive certain charges and to make certain other commitments necessary to carry out the Multilateral Memorandum of Understanding on the NATO AWACS program. Those authorities were confined to the fiscal year 1979 program. Therefore the committee has added these provisions (Sec. 102) in this bill to repeat those specific authorities for fiscal year 1980.

Navy and Marine Corps

P-3C

The P-3C is a land-based, four engine turboprop antisubmarine warfare patrol aircraft. The Orion carries a crew of 12 and can fly a 10 to 12 hour mission which entails detection, classification, tracking, localizing and destruction of conventional and high performance submarines. Intelligence collection, maritime surveillance and aerial mining all are secondary missions of the P-3C.

The committee recommends a reduction of $12 million to the request for P-3C advance procurement of $58.3 million. In addition, $4 million in savings from fiscal year 1979 contract negotiation is recommended as an offset to fiscal year 1980 fund requirement. The $42.3 million recommended is adequate and is more in line with advance procurement requests for aircraft of comparable complexity.

Recommended for Approval as Requested

Navy and Marine Corps

EA-6B

The EA-6B is an electronic warfare derivative of the A-6 attack plane. It is equipped with a high power jamming system, and the current version has an updated electronics system with expanded frequency coverage.

E-2C

The E-2C is an advanced all-weather, twin turboprop engine, carrier based airborne early warning aircraft. The Hawkeye carries a crew of 5 and contains radar displays and a data link system. The E-2C provides warning of enemy units and command and control vectoring of interceptors into an attacking position.

Air Force

TR-1

The TR-1 is a single engine, single crew, fixed wing aircraft specifically designed for a high altitude, stand-off surveillance reconnaissance mission.

STRATEGIC AIRCRAFT

Recommended for Approval as Requested

Navy

EC-130Q

The EC-130Q is a basic C-130 aircraft, modified for airborne communications. This aircraft provides airborne communications relay interfacing between national Command and Control authorities and the submarine fleet.

AIRLIFT/TANKER AIRCRAFT

Committee Recommendation for Change

Air Force

C-130H Tactical Transport

The C-130 is used for intra-theater tactical airlift missions. The Air Force did not request procurement of this aircraft in the 1980 budget request. The committee authorized $79.0 million to procure 8 of these aircraft for Air National Guard airlift units.

Recommended for Approval as Requested

Air Force

KC-10A Advanced Tanker Cargo Aircraft (ATCA)

The ATCA is a military derivative of the commercial DC-10 aircraft. Its primary mission will be to support power-projection missions of Air Force tactical fighter forces, and, in a secondary role, it will augment the U.S. strategic airlift force.

UTILITY/SUPPORT/OTHER AIRCRAFT

Recommended for Approval as Requested

Army

UH-60A

The Black Hawk is the Army's first true squad carrying helicopter designed to lift an Infantry squad of 11 combat equipped soldiers in tactical assaults and related combat support missions.

Navy

CH-53E Helicopter

The CH-53E is a three-engine helicopter designed to lift 16 tons. This heavy multipurpose helicopter is used for lift and recovery of cargo and troops and for fleet replenishment.

UC-12B

The UC-12B is a commercial off-the-shelf FAA type certified aircraft, turbine powered with a capacity to carry a minimum of 8 passengers. The aircraft is intended to provide administrative support to Fleet Commands, subordinate units, shore facilities and research organizations.

MODIFICATIONS

Committee Recommendation for Change

Navy

C–9 Navy Tactical Airlift Aircraft

The Navy requested $2.2 million for miscellaneous modifications of its fleet of C–9 aircraft. The committee denied $0.3 million for an automatic back-course instrument-landing system for these aircraft as not mission-essential.

Recommended for Approval as Requested

Air Force

Civil Reserve Air Fleet (CRAF) Modifications

The Air Force requested $73.6 million to modify wide-body commercial passenger aircraft during their construction. This modification will enable these aircraft (which will be flown routinely in commercial civil passenger service) to be converted to transport military cargoes during a national emergency.

The committee, recognizing this program as an economical way to procure augmentation for our strategic airlift forces, authorized the full request. In executing this program the committee expects the Air Force to:

> Contract with commercial carriers—through a lump-sum, one-time payment—to provide for the expenses of the modification to the aircraft and to provide the carrier a reasonable offset for increased operating costs that will result from the increased operational weight of the aircraft. The Air Force should not obligate the Government in any way for further assistance, financial or otherwise, to the carrier.
>
> Provide for the recovery of the Government's investment in these aircraft if any of the aircraft:
>
> > Are placed in service as transporters of cargo by the civil carriers;
> >
> > Are lost or destroyed;
> >
> > Are sold or leased by the original carriers with whom the Air Force contracts;
> >
> > Are not maintained in operating condition.
>
> The amount recovered should be the amount of the lump-sum payment originally paid by the Government, adjusted as follows:
>
> > The lump-sum amount should be reduced according to an equitable schedule of amortization (spanning the expected service life of the aircraft) agreed to by the Air Force and the carrier at the time of the contract;
> >
> > The amount arrived at by application of the amortization schedule to the original lump-sum amount should then be

increased (to offset the effects of inflation) through the use of an appropriate schedule of escalation indices agreed to by the Air Force and the carrier at the time of the contract;

If recovery of the investment occurs in the first two years after the date of delivery of the aircraft to the carrier by the manufacturer, the amount refunded to the Government should be 100 percent of the amount invested by the Government, escalated from the date of the contract between the Government and the carrier to offset inflation.

FLIGHT SIMULATORS

Recommended for Approval as Requested

The committee recommends for authorization the amounts requested by the services as follows: Army, $16.8 million; Navy/Marine Corps, $99.9 million; and Air Force, $150.8 million.

The committee found the reports on flight simulators submitted by the Defense Department at the request of the committee very helpful in reviewing the flight simulator programs. The committee encourages the Defense Department to continue this report as a useful tool for the committee's budget review process.

Fiscal Year 1980 Army Aircraft Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Fixed wing:										
Airplane, cargo, C-12A	20	17.9								
Airplane, Pilatus PC-6 turbo porter	2	1.0								
Airplane, UV-18 twin otter	2	2.6								
Rotary:										
Helicopter, attack, AH-1S (Cobra/Tow)	83	138.8	66	119.9						
Less: Advance procurement (PY)		-6.4		-3.4						
Net		132.4		116.5						
Advance procurement (CY)		2.8								
Helicopter, cargo, CH-47C, D (Chinook)			8	33.0						
UH-60A (Black Hawk)	56	199.8	129	355.8	145	354.5			145	354.5
Less: Advance procurement (PY)		-6.0		-11.2		-15.6				-15.6
Net		193.8		344.6		338.9				338.9
Advance procurement (CY)		10.4		15.3		16.9				16.9
Total, aircraft		360.9		509.4		355.8				355.8
Modification of aircraft		190.3		297.2		442.2				442.2
Spares and repair parts		65.7		66.9		71.5				71.5
Support equipment and facilities		41.8		76.2		76.9				76.9
Total, Army aircraft		658.7		949.7		946.4				946.4

FISCAL YEAR 1980 NAVY AIRCRAFT PROCUREMENT REQUEST

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Combat aircraft:										
A-4M (attack) Skyhawk		12.1								
A-6E (attack) Intruder	12	168.9	12	186.8		56.7	+6	+88.9	6	145.6
Less: Advance procurement (PY)		-11.0		-20.5						
Net		157.9		166.3		56.7		+88.9		145.6
Advance procurement (CY)		20.5								
EA-6B (electronic warfare) prowler	6	136.0	6	158.4	6	165.6			6	165.6
Less: Advance procurement (PY)		-8.3		-8.3		-11.5				-11.5
Net		127.7		150.1		154.1				154.1
Advance procurement (CY)		8.3		11.5		12.3				12.3
A-7E (attack) Corsair II	12	125.2	12	115.4		15.0				15.0
Less: Advance procurement(PY)		-17.8		-5.0						
Net		107.4		110.4		15.0				15.0
Advance procurement (CY)		5.0								
F-14A (fighter) Tomcat	44	779.5	36	816.1	24	610.3			24	610.3
Less: Advance procurement (PY)		-122.5		-132.3		-145.6				-145.6
Net		657.0		683.8		464.7				464.7
Advance procurement (CY)		132.3		145.6		115.7				115.7
F-18			9	463.7	15	634.5	+10	+351.5	25	986.0
Less: Advance procurement (PY)				-34.2		-59.9				-59.9
Net				429.5		574.6		+351.5		926.1
Advance procurement (CY)		34.2		59.9		91.5				91.5

CH-53E (helicopter) Super Stallion			14	168.1	15	156.5		15	156.5
AH-1T (helicopter) Sea Cobra	8	31.7							
Less: Advance procurement (PY)		−2.5							
Net		29.2							
P-3C (patrol) Orion	14	311.6	12	313.8	12	301.5		12	301.5
Less: Advance procurement (PY)		−34.7		−39.0		−41.9			−41.9
Net		276.9		274.8		259.6			259.6
Advance procurement (CY)		39.0		41.9		58.3	−16.0		42.3
S-3A (antisubmarine) Viking		59.6							
E-2C (early warning) Hawkeye	6	194.3	6	192.5	6	190.0		6	190.0
Less: Advance procurement (PY)		−11.1		−11.4		−16.5			−16.5
Net		183.2		181.1		173.5			173.5
Advance procurement (CY)		11.4		16.5		17.6			17.6
Total, combat aircraft		1,861.7		2,439.5		2,150.1			2,574.5
Support aircraft:									
UC-12B	22	21.6	22	27.4	22	26.3		22	26.3
C-9B			1	12.8					
Total, support aircraft		21.6		40.2		26.3			26.3
Trainer aircraft:									
T-34C	34	28.3		.3		2.0			2.0
T-44A	23	17.7		.8		.6			.6
Total, trainer aircraft		46.0		1.1		2.6			2.6
Strategic aircraft: EC-130Q (Tacamo) Hercules			1	31.7	3	96.1		3	96.1
Modification of aircraft		825.0		982.8		781.4	−.3		781.1
Spares and repair parts		513.1		569.2		656.6			656.6
Aircraft support equipment and facilities:									
Common ground equipment		117.7		148.8		115.1			115.1
Component improvement		43.9		61.3		73.4			73.4
Aircraft industrial facilities		52.3		19.2		21.1			21.1
War consumables		5.7		.6		2.6			2.6
Other production charges		42.0		64.3		42.6			42.6
Total, aircraft support equipment and facilities		261.6		294.2		254.8			254.8
Total, Navy aircraft		3,528.9		4,358.7		3,967.9	+424.1		4,392.0

Fiscal Year 1980 Air Force Aircraft Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program [1]		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tactical forces:										
A-7K			12	120.5			+12	+149.2	12	149.2
A-10	144	780.1	144	792.7	144	857.4			144	857.4
Less: Advance procurement (PY)		−35.0		−43.8		−54.1				−54.1
Net		745.1		748.9		803.3				803.3
Advance procurement (CY)		43.8		54.1		52.0				52.0
F-15A/B/C/D	97	1,552.6	78	1,291.8	60	969.9			60	969.9
Less: Advance procurement (PY)		−51.4		−69.6		−81.4				−81.4
Net		1,501.2		1,222.2		888.5				888.5
Advance procurement (CY)		69.6		81.4		77.0				77.0
F-16A/B	105	1,431.1	145	1,344.2	175	1,490.2			175	1,490.2
Less: Advance procurement (PY)		−174.9		−37.7		−63.9				−63.9
Net		1,256.2		1,306.5		1,426.3				1,426.3
Advance procurement (CY)		37.7		63.9		136.3				136.3

Other combat aircraft:										
KC-10A (ATCA)			2	172.3	4	178.5			4	178.5
Less: Advance procurement (PY)				−28.8						
Net				143.5		178.5				178.5
E-3A	3	243.0	3	225.8	3	295.0			3	295.0
Less: Advance procurement (PY)		−42.0		−40.5		−49.0				−49.0
Net		201.0		185.3		246.0				246.0
Advance procurement (CY)		40.5		49.0		68.0		−68.0		0
Total, combat aircraft		3,895.1		3,975.3		3,875.9				3,957.1
Tactical airlift; C-130H	8	64.5	8	68.5			+8	+79.0	8	79.0
Other aircraft;										
TR-1					2	41.7			2	41.7
Less; Advance procurement (PY)						−10.2				−10.2
Net						31.5				31.5
Advance procurement (CY)				10.2		11.5				11.5
Total, other aircraft				10.2		43.0				43.0
Modification of aircraft		652.5		947.8		1,575.1		+15.0		1,590.1
Spares and repair parts		1,147.4		1,193.5		1,017.8				1,017.8
Common ground equipment		92.7		243.5		282.8				282.8
Component improvement		66.3		110.0		104.4				104.4
Industrial facilities		60.3		73.9		55.8				55.8
War consumables		28.8		38.1		34.9				34.9
Other production charges		364.6		224.4		941.5		−7.1		934.4
Total, aircraft procurement, Air Force		6,372.2		6,985.2		7,931.2		+168.1		8,099.3

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[1] Excludes proposed supplemental.

MISSILES

Committee Action on Missiles

The following table summarizes the committee's recommendations on missile procurement. The discussion which follows explains the committee's action in each of the various categories of missiles. The detailed charts following the missile section relate the committee's action to the corresponding appropriation account.

COMMITTEE ACTION ON MISSILE PROCUREMENT

[In millions]

	Army		Navy		Marine Corps	
	Request	Recommended	Request	Recommended	Request	Recommended
Strategic			$818.1	$818.1		
Theater nuclear	$70.6	$70.6	3.3	22.7		
Air-to-air			194.5	162.0		
Air-to-ground			54.8	54.8		
Surface-to-air	830.0	830.0	173.7	173.7	$16.9	$16.9
Surface launch/surface attack	120.1	74.9	161.4	161.4		
Other			30.5	30.5		
Space and communications			53.7	53.7		
Modifications	78.7	78.7	11.5	11.5	2.9	2.9
Spares and repairs	117.5	117.5	24.0	24.0	.7	.7
Support equipment and facilities	33.6	33.6	22.8	22.8		
Total	1,250.5	1,205.3	1,548.3	1,535.2	20.5	20.5

	Air Force		Total missile procurement	
	Request	Recommended	Request	Recommendation
Strategic	$472.9	$472.9	$1,291.0	$1,291.0
Theater nuclear	25.0	25.0	98.9	118.3
Air-to-air	231.0	156.3	425.5	318.3
Air-to-ground	8.4	8.4	63.2	63.2
Surface-to-air			1,020.6	1,020.6
Surface launch/surface attack			281.5	236.3
Other	20.3	20.3	50.8	50.8
Space and communications	1,347.5	1,347.5	1,401.2	1,401.2
Modifications	72.8	72.8	165.9	165.9
Spares and repairs	94.9	94.9	237.1	237.1
Support equipment and facilities	15.8	15.8	72.2	72.2
Total	2,288.6	2,213.9	5,107.9	4,974.9

STRATEGIC MISSILES

Cruise Missiles

Cruise missiles will play a major role in our future strategic and theater nuclear forces. Fiscal year 1980 will be the first year of serial production of cruise missiles starting with the air launched cruise missile (ALCM). The committee recommends authorization of the requested $364.4 million for 225 ALCMs. The committee also recommends authorization of the $25 million for long lead items for production of the ground launched cruise missile (GLCM).

No funds were requested for production of the land-attack sea launched cruise missile (SLCM) but the committee recommends authorization of $19.4 million for the procurement of 6 missiles. In addition, the committee recommends authorization of the $3.3 million requested for long-lead procurement of the anti-ship SLCM.

The committee recommends authorization of these procurement funds despite serious concerns about the testing of the cruise missiles. These concerns are expressed in the research and development section.

Recommended for Approval as Requested

Navy

Trident

The Trident missile is the successor to the Polaris and Poseidon strategic submarine-launched ballistic missiles. It has a range of over 4,000 miles and will be used on the new Trident submarines as well as being backfitted on some of the current Poseidon submarines.

Air Force

Air Launched Cruise Missile (ALCM–B)

The Air Launched Cruise Missile is a small, long range, accurate, nuclear armed air-to-ground cruise missile planned for use on the B–52G strategic bomber.

THEATER NUCLEAR MISSILES

Committee Recommendation for Change

Sea Launched Cruise Missile (SLCM)

For the second consecutive year, the Administration has not sought procurement funds for the SLCM. The committee recommends addition of $19.4 million to procure six Tomahawk land attack cruise missiles to support NATO theater nuclear force modernization. This addition is consistent with this committee's action last year in adding $20 million to initiate long-lead procurement.

Taken together with the $3.3 million request for long-lead procurement for the Tomahawk anti-ship cruise missile, the total for the SLCM line this year would be $23.2 million. This would preserve a 1982 initial operational capability for the Tomahawk land attack SLCM.

Recommended for Approval as Requested

Army

Pershing

The Pershing is a two stage, solid propellant, wheel mounted, air transportable surface-to-surface missile.

AIR-TO-AIR MISSILES

Committee Recommendations for Changes

Navy

Sparrow Missile

The Sparrow missile is a joint Navy/Air Force medium range air-to-air missile with a semi-active radar seeker. The missile is also used by the Navy as a point-defense surface-to-air shipboard missile. The request is for $64.3 million to procure 120 AIM–7F and 120 AIM–7M Sparrow missiles. The AIM–7M missile is an improved monopulse version of Sparrow which offers greatly enhanced capability over the older AIM–7F missile. The committee recommends procurement only of the 120 improved AIM–7M missiles and termination of AIM–7F production reducing funding by $10.1 million. The committee also recommends a reduction of $5.3 million corresponding to funds available from fiscal year 1979 due to favorable contract negotiation. A net reduction of $15.4 million and deletion of procurement of the 120 AIM–7F missiles is therefore recommended.

Sidewinder Missile

The Sidewinder missile is a joint Navy/Air Force short range, heat seeking (infrared) missile. The request is for $21.3 million to procure 320 AIM–9L Sidewinder missiles. The new AIM–9M Sidewinder missile with an improved IR seeker, with significantly better performance, will be ready for production in fiscal year 1980. The test program has been highly successful. It has been indicated to the committee that a production of 160 AIM–9M missiles is achievable. The committee recommends termination of production of the AIM–9L missile with the fiscal year 1979 buy and authorization of $16.3 million, a reduction of $5.0 million, to initiate production of the AIM–9M missile with the procurement of 160 missiles. The action will accelerate introduction of this important improved missile into service use by one year.

Phoenix Missile

The Phoenix AIM–54 missile is a long-range, radar guided, air-to-air interceptor missile designed for the Navy F–14 fighter interceptor aircraft. The missile has semi-active mid-course with active terminal guidance. Six missiles can be carried by the F–14 aircraft. The request is for $108.9 million for 120 AIM–54A missiles and 60 AIM–54C missiles. The request represents initial procurement of the new AIM–54C version of the Phoenix missile with improved guidance, fusing, and seeker. The committee does not recommend procurement of the AIM–54A missile in that the improved "C" version is planned for production. Furthermore, testimony has indicated that the AIM–54A missile may have been compromised due to recent events in Iran. The committee recommends an authorization of $96.8 million, a reduction of $12.1 million, to procure 60 AIM–54C missiles and to accommodate repricing and program impact of termination of AIM–54A buy.

Air Force

Sparrow Missile

The request is for $144.2 million for 660 AIM–7F missiles and 660 AIM–7M missiles. Consistent with the recommendation for Navy Sparrow procurement, the committee recommends procurement only of the 660 new AIM–7M missiles and termination of the AIM–7F production, reducing funding by $55.4 million. A reduction of $4.3 million is also recommended in that funds are available from fiscal year 1979 due to favorable contract negotiations. Authorization of $84.5 million is thus recommended, a reduction of $59.7 million.

Sidewinder Missile

The request is for $86.8 million for 2050 AIM–9L missiles. Consistent with the recommendation for Navy Sidewinder procurement, the committee recommends termination of the AIM–9L production and authorization of $71.8 million for procurement of 1025 AIM–9M missiles, a reduction of $15.0 million.

AIR-TO-GROUND MISSILES

Recommended for Approval as Requested

Navy

Harm

The Harm missile is a new air-to-ground defense suppression missile for destruction or suppression of enemy radar units. This advanced missile, which seeks radiating targets, will provide a capability surpassing that of all other current defense suppression missiles. The fiscal year 1980 request represents initial procurement of this important new missile, designed to meet both Navy and Air Force requirements.

SURFACE-TO-AIR MISSILES

Recommended for Approval as Requested

Army

Roland

The Roland is an all-weather, short-range air defense missile system for point defense of rear area assets against low-altitude targets.

Chaparral

The Chaparral is a ground-launched adaptation of the Navy's Sidewinder air-to-air missile that is fired from a tracked vehicle.

Patriot

The Patriot is a mobile air defense system consisting of a phased array radar set, engagement control station, powerplant and launching station. Each missile is contained in a canister which serves as a shipping and storage container and launch tube.

Hawk

The Improved Hawk is an all-weather radar-guided medium-range SAM missile. The improved version now in production features solid state guidance components and more range and lethality than the basic Hawk it replaces.

Stinger

The Stinger is a short-range, clear-weather, shoulder-fired small SAM missile that will replace the Redeye. It will have solid state guidance components and an improved rocket motor. It also is being procured by the Marine Corps.

Navy

Standard Missile (Medium- and Extended-Range)

The Standard Missile is the Navy's medium- to long-range shipboard surface-to-air missile designed to provide area air defense for the carrier battle group. The SM–2(ER) is the extended-range Standard Missile designed for Terrier-class ships and the SM–1(MR) and the new SM–2(MR) are the medium-range Standard Missiles designed for Tartar-class ships. The SM–2(MR) is also intended for the new Aegis-class ships.

SURFACE LAUNCH/SURFACE ATTACK MISSILES

Committee Recommendation for Change

TOW

The Army requested $58.2 million to procure 12,865 missiles. The committee authorized $13 million for 2,060 missiles which, when added to a Navy request for 3,940 missiles for the Marine Corps, will provide a minimum sustaining rate of 6,000 missiles per year.

The Army has requested substantial development funds to obtain an improved version of this missile, and the committee does not see the need to add large quantities of the unimproved model to the Army's inventory.

This action will provide the option of producing the new version of the TOW in the future if that appears warranted.

Recommended for Approval as Requested

Army

General Support Rocket System

This mobile rocket launcher will supplement cannon artillery in attacking area targets with a high volume of fire.

Navy

Harpoon

The AGM–84A Harpoon is an air, surface, and sub-surface-launched antiship missile. It is propelled by a turbo jet engine, with a solid-grain propellant booster for surface ship and submarine launch. Harpoon provides an all-weather, antiship cruise missile stand-off capability against enemy ships of all types.

SPACE AND COMMUNICATIONS SYSTEMS

Recommended for Approval as Requested

Air Force

Spaceborne Equipment (COMSEC)

COMSEC provides communication security on all critical communications systems. The funds recommended provide for the procurement of communications equipment for the program.

Space Launch Support

Space Launch Support provides the Inertial Upper Stage (IUS) to support the consolidated Air Force operational space programs which include AFSATCOM, Defense Meteorological Satellite Program, Defense Satellite Communications System, Defense Support Program and Satellite Data Systems.

Satellite Data Systems (SDS)

The SDS is a multi-purpose communications system which has the mission of supporting communications for the strategic forces and Air Force Satellite Control Facility ground stations.

Defense Meteorological Satellite Program (DMSP)

The DMSP is a satellite program which provides timely high-quality visual and infrared weather data to support operations of the Armed Forces.

Defense Support Program (DSP)

The DSP satellites contain sensors which provide data to the National Command Authorities and other designated users.

Defense Satellite Communications System (DSCS)

The DSCS is a satellite communications sytem consisting of four operational satellites on orbit with two on-orbit spares. The mission is to provide secure long distance communication capability.

Air Force Satellite Comunications Systems (AFSATCOM)

The AFSATCOM system is a multiple satellite communications system which provides direct teletype communications between the National Command Authorities and force elements of the Single Integrated Operations Plan (SIOP).

Space Boosters

The Space Booster program provides consolidated launch support for the requirements common to the USAF Space program.

Space Shuttle

The Space Shuttle is a NASA development program to provide an advanced, reusable, manned orbiter vehicle which will be capable of transporting payloads to low earth orbit.

Navy

Fleet Satellite Communications (FLTSATCOM)

FLTSATCOM provides the Navy worldwide UHF mobile user communications services.

FISCAL YEAR 1980 ARMY MISSILE PROCUREMENT REQUEST

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program [1]		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Other missiles:										
Surface-to-air missile system:										
Chaparral (M1M-72-A/C)	870	33.3	850	34.7		3.2				3.2
Hawk (M1M-23-B)	509	91.5	608	72.3	197	36.5			197	36.5
U.S. Roland		55.7	75	165.0	410	283.3			410	283.3
Patriot (SAM-D)				67.3	155	426.0			155	426.0
Stinger	258	34.0	2,250	104.9	2,400	81.0			2,400	81.0
Antitank/assault missile system:										
Dragon (FGM-77A, FTM-77A)	6,965	47.9								
TOW (BGM-71A)	5,720	40.9	9,600	42.3	12,865	58.2	−10,805	−45.2	2,060	13.0
Lance (MGM-52C)	360	73.0		64.3						
Pershing (MGM-31A)	6	18.7	30	65.6		70.6				70.6
General support rocket system					1,764	61.9			1,764	61.9
Total, other missiles		395.0		616.4		1,020.7				975.5
Modification of missiles		44.2		69.8		78.7				78.7
Spares and repair parts		56.8		29.2		117.5				117.5
Air defense command/control system AN/TSQ-73	9	37.8								
Air defense targets		7.6		8.0		8.2				8.2
Improved conduct of firetrn (Shillelagh)	58	5.9								
Land combat support system				4.2						
Items less than $900,000 (missiles)		.7		.2		.2				.2
1st destination transportation		1.3								
Production base support		13.4		9.1		14.9				14.9
Depot rebuild facilities equipment						10.3				10.3
Total, Army missiles		562.7		736.9		1,250.5		−45.2		1,205.3

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[1] Excludes proposed supplemental.

Fiscal Year 1980 Navy Missile Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic missiles:										
UGM-27C (A-3) Polaris		1.7		1.0						
UGM-73A (C-3) Poseidon		20.2		24.4		25.9				25.9
UGM -96A (C-4) Trident 1	96	1,072.8	86	814.3	82	748.8			82	748.8
Less: Advance procurement (PY)		−153.7		−90.9		−72.3				−72.3
Net		919.1		723.7		676.5				676.5
Advance procurement (CY)		213.6		161.5		86.5				86.5
Modification of ballistic missiles		28.5		21.8		9.5				9.5
Spares and repair parts		5.7		6.5		2.3				2.3
1st destination transportation		1.8								
Missile industrial facilities		5.0		1.6		.2				.2
Astronautics		4.2		4.9		17.2				17.2
Total, ballistic missiles		1,199.8		945.4		818.1				818.1
Other missiles;										
Strategic missiles; BGM-109 Tomahawk						3.3	+6	+19.4	6	22.7

Tactical missiles:										
AIM/RIM-7 F/M Sparrow	425	63.6	410	58.1	240	64.3	−120	−15.4	120	48.9
AIM-9H/L Sidewinder	600	36.7	650	32.5	320	21.3	−160	−5.0	160	16.3
AIM-54A/C (Phoenix)	210	84.9	210	84.5	180	107.5	−120	−12.1	60	95.4
Less: Advance procurement (PY)		−4.1		−4.5		−6.1				−6.1
Net		80.8		80.0		101.4		−12.1		89.3
Advance procurement (CY)		4.5		6.1		7.5				7.5
AGM-45A (Shrike)		.6		.3						
AGM-78D Standard Arm		1.5		.5						
AGM-84A Harpoon	234	130.0	240	130.0	240	142.6			240	142.6
AGM-88A Harm					80	54.8			80	54.8
RIM-66B Standard MR	480	95.8	480	93.2	480	105.2			480	105.2
RIM-66C Standard MR					30	19.3			30	19.3
RIM-67B Standard ER	40	48.7	40	51.7	55	49.2			55	49.2
BGM-71A TOW	1,600	8.2	1,320	6.8	3,940	18.8			3,940	18.8
Other missile support		6.3		4.9		2.5				2.5
Aerial target		53.4		58.0		30.5				30.5
Modification of missiles		14.1		15.0		11.5				11.5
Spares and repair parts		22.0		32.5		24.0				24.0
1st destination transportation		1.7								
Weapons industrial facilities		20.8		21.9		20.3				20.3
Manufacturing technology		5.6								
Fleet satellite communications		76.8		17.7		29.6				29.6
Satellite space components		6.6								
Classified projects				11.1		23.9				23.9
Defense meteorological satellite program		.2		.1		.2				.2
Total, other missiles		676.9		620.4		730.2				717.1
Total, Navy missiles		1,876.7		1,565.5		1,548.3		−13.1		1,535.2

Fiscal Year 1980 Air Force Missile Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic:										
LGM-30F/G Minuteman II/III		38.8		64.9		87.1				87.1
Less: Advance procurement (PY)				-3.6		-4.8				-4.8
Net		38.8		61.3		82.3				82.3
Advance procurement (CY)		3.6		4.8		4.8				4.8
Minuteman force modernization		220.7								
ICBM C3 integration						21.4				21.4
Total, ballistic missiles		263.1		66.1		108.5				108.5
Other missiles:										
Strategic:										
Air-launch cruise missile	24	104.6	24	90.8	225	364.4			225	364.4
Ground-launch cruise missile				20.2		25.0				25.0
Tactical:										
AIM-7F/M Sparrow	1,300	112.6	1,500	127.1	1,320	144.2	-660	-59.7	660	84.5
AIM-9L Sidewinder	2,300	102.8	2,500	97.4	2,050	86.8	-1,025	-15.0	1,025	71.8
AGM-45A Shrike	650	32.1	600	30.5						
AGM-65A Maverick		8.3		34.3		8.4				8.4
AGM-65C Maverick		2.1								
Less: Advance procurement (PY)		-1.5								
Net		.6								
Target drones		14.5		11.3		20.3				20.3
Recce drones		27.1								
Total, other missiles		402.6		411.6		649.1				574.4
Modification of missiles		69.3		33.9		72.8				72.8
Spares and repair parts		59.2		61.3		94.9				94.9

Other support—Space programs:					
Spaceborne equipment (Comsec)		19.7	20.5		20.5
Space launch support		17.0	25.9		25.9
Satellite data system	89.8	22.6	98.9		98.9
Less: Advance procurement (PY)	−6.6		−15.3		−15.3
Net	83.2	22.6	83.6		83.6
Advance procurement (CY)		15.3	16.7		16.7
Defense meteorological satellite program	52.3	46.8	27.8		27.8
Less: Advance procurement (PY)		−2.6			
Net	52.3	44.2	27.8		27.8
Advance procurement (CY)	2.6				
Defense support program	93.9	123.4	103.9		103.9
Defense satellite communications system	66.2	8.1	65.4		65.4
Less: Advance procurement (PY)			−5.8		−5.8
Net	66.2	8.1	59.6		59.6
Advance procurement (CY)		5.8	18.8		18.8
Air Force satellite communications system	1.0	2.5	2.1		2.1
Less: Advance procurement (PY)	−.8		−1.9		−1.9
Net	.2	2.5	.2		.2
Advance procurement (CY)		1.9			
Back Titan III C booster	63.9	11.5	7.1		7.1
Space Shuttle	18.2	91.7	165.9		165.9
Industrial facilities	9.1	6.8	15.8		15.8
Classified drones	1.5				
1st destination transportation	4.1				
Special programs	607.8	570.2	599.6		599.6
Special update programs			218.0		218.0
Total, other support	1,003.1	940.7	1,363.3		1,363.3
Total, missile procurement, Air Force	1,797.3	1,513.5	2,288.6	−74.7	2,213.9

FISCAL YEAR 1980 MARINE CORPS MISSILE PROCUREMENT REQUEST

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Guided missiles:										
Improved Hawk	50	5.4								
Improved Hawk (mod)		6.0		2.4		7.1				7.1
Stinger missile system		4.2	428	17.5	254	9.8			254	9.8
Dragon missile system	13,706	36.0								
TOW missile system	4,941	25.6								
Spares and repair parts		1.5		2.0		.7				.7
Modification kits		4.3		.9		2.9				2.9
1st destination transportation		.1								
Total, Marine Corps missiles		83.3		22.8		20.5				20.5

NAVY SHIPS, TORPEDOES AND OTHER WEAPONS

Navy Ship Inventory

The Navy's active fleet at the end of fiscal year 1979 will total 455 ships. An additional 59 ships will be in the Reserve fleet. This compares to a fiscal year 1964 naval active and Reserve fleet of 1,002 ships.

At the beginning of fiscal year 1979, 112 ships will have been approved but not delivered to the fleet. Delivery of these ships will result in a gradual increase in Navy fleet size to over 500 ships over the next several years.

NAVY SHIPS

	Fiscal year 1964		Fiscal year 1968		Fiscal year 1979		Fiscal year 1980	
	Active	Reserve	Active	Reserve	Active	Reserve	Active	Reserve
Strategic submarines (SSBN)	21	0	41	0	41	0	41	0
General purpose forces	896	85	935	75	414	59	421	41
Attack submarines (nuclear and diesel)	104	0	105	0	80	0	82	0
Attack carriers	15	0	15	0	13	0	13	0
ASW carriers	9	0	8	0	0	0	0	0
Other combatants:								
Cruisers	28	0	34	0	28	0	27	0
Destroyers	213	13	222	16	72	28	79	8
Frigates	40	27	50	19	65	0	70	0
Amphibious	133	0	157	0	65	3	63	3
Patrol combatants	6	9	9	6	3	0	3	0
Mine warfare	85	13	84	12	3	22	3	22
Auxiliaries	263	23	251	22	85	6	81	8
Total ships	917	85	976	75	455	59	462	41

Naval Ship Forces

The committee is compelled once again to voice deep concern over the progress toward maintenance of strong, flexible, and superior naval forces. Testimony this year pointed out that, based on current estimates and currently projected naval ship programs, the United States may well lose naval superiority after the mid-1980's.

The long-term trend in naval shipbuilding shows a dramatic decline:

> 336 new ships were requested and funded in the 1960s.
>
> 155 new ships were requested and funded in the 1970s.
>
> In the 1980's, based on the current rate and the current five-year ship program, 134 new ships may be requested.

The current shipbuilding rate is inadequate to maintain the 500-ship Navy that will be attained in the next few years as a result of previously approved shipbuilding programs. This trend must be reversed if the United States is to maintain an adequate naval posture.

Commencing in the late 1960's, naval ship programs were reduced as a result of the demands to support the Vietnam war effort. The low construction rate continued through the 1970's as shipbuilding problems detracted from any significant expansion of ship construction. However, the Vietnam war and shipbuilding problems no longer block needed expansion of naval ship construction.

Current naval forces are the minimum required to meet military wartime needs. In addition, the present size is barely enough to meet present peacetime commitments; deployments are overly long, and ship turnaround times are too short. Operational flexibility is at a minimum since any new requirement, such as the recent Indian Ocean deployment, cannot be accomplished without drawdown of carriers and ships from other peacetime commitments.

There is strong evidence to support the need for additional carrier forces if naval superiority is to be continued. The committee urges an immediate and realistic evaluation of future naval force requirements. The long period between the request and delivery of ships demands an early start to reverse the projected downward trend in naval ship forces and naval capability.

The committee believes that every effort should be made to provide for increases in future requests for construction of Navy ships.

Authorization Requests

Navy Shipbuilding and Conversion

The fiscal year 1980 request totals $6,173.8 million. Ten new combatant ships are requested as well as authorization of one major ship modernization program, advance procurement funding for the carrier service life extension program and continuation of the TAGOS/SURTASS submarine detection program. Also included are authorization of funds for miscellaneous service and landing craft, outfitting and post delivery costs associated with delivery of new ships to the naval fleet, and cost growth and escalation for ships approved in prior years.

Navy Torpedoes and Related Support Equipment

Authorization in the amount of $267.2 million is requested for fiscal year 1980. The request includes $62.5 million for procurement of 567 MK–46 and $61.7 million for 260 MK–60 CAPTOR mines. New MK–48 torpedoes are not requested but $46.6 million is requested for continuing engineering support of previously approved MK–48 production programs. Modifications and other support costs account for the remaining $96.4 million requested.

Navy Other Weapons

The authorization request for Navy Other Weapons for fiscal year 1980 is $158.0 million. Included in the request are $114.4 million for procurement of 61 MK–15 Close-In Weapon Systems and $10.3 million for three MK–75 gun mounts for Coast Guard ships. The remaining $33.5 million is for modifications and support equipment.

Summary of Recommendations

Recommended authorizations are as follows:

	Millions
Navy shipbuilding and conversion	$5,791.6
Navy torpedoes and related support equipment	336.8
Navy other weapons	153.0

The above recommended totals reflect changes as follows to the requests:

	Millions
SSN-688 nuclear attack submarine	−53.1
CVV medium conventional carrier	−1,617.1
CV modified Kennedy-class conventional carrier	+1,760.0
DDG-2 guided missile destroyer modernization	−278.8
T-AGOS SURTASS	−154.0
LPH conversion	+49.5
LSD-41 dock landing ship advance procurement	+41.5
Ship cost growth/escalation	−130.2
MK-48 torpedo	+75.1
Torpedo modifications	−5.5
MK-15 close-in weapon system	−5.0

Committee Recommendations for Changes

Navy Aircraft Carrier

The committee recommends authorization of $1,760 million for a CV modified Kennedy-class conventional carrier rather than the CVV medium conventional carrier at a cost of $1,617.1 million requested by the Navy.

Authorization of this carrier fulfills the Navy's carrier requirements as expressed in the Five-Year Shipbuilding Plan. The committee is mindful of our continuing need for Naval striking power at sea, however, and will continue to consider in subsequent years the need for additional large-deck carriers.

The relative capabilities and costs of the various aircraft carrier alternatives were carefully considered and construction of a modified Kennedy-class large-deck carrier proved to be the preferred choice for authorization.

In comparison to the requested CVV, the modified Kennedy-class CV carries 50 percent more aircraft, is better suited for high threat scenarios, has better sea keeping in high sea states thereby allowing greater flexibility and safety in aircraft operations, and is less vulnerable. The committee felt that the added cost of the CV of $142.9 million was a reasonable price to pay for the substantial increase in capability.

It should be noted that the CVV is as yet a "paper carrier", whereas the Navy has already built and operated for some years Kennedy-class carriers. As a result, there should be less room for cost growth or construction difficulties with the proven modified Kennedy-class carrier than with the CVV medium carrier program.

LPH Conversion

The committee recommends authorization of $49.5 million for conversion of an LPH amphibious ship to a Light Carrier (VSTOL Support Ship). This action is consistent with the past committee position that a start must be made toward modernizing the Navy and providing future VSTOL aviation capability at sea to complement the existing large-deck carrier force.

Other related actions include recommendations for advance procurement for a LSD-41 dock landing ship, $25 million for R&D design of a Light Carrier, and $5 million for R&D effort for a Navy version of the advanced AV-8B Marine Corps Harrier aircraft.

DDG–2 Guided Missile Destroyer Modernization

Authorization of requested funding for the DDG–2 modernization program is not recommended. This results in a total reduction of $278.8 million broken down as follows:

	Millions
DDG–2 modernization	–$135.4
DDG–2 advance procurement	–85.9
Outfitting/post-delivery	–2.5
Prior year funding	–55.0
Total	–$278.8

The remaining $167.5 million authorized and funded in prior years should be used for necessary procurement of materials and related design effort for overhaul and upgrade of the DDG–2 class guided missile destroyers in the Fleet Modernization Program.

In recommending that the Navy modernize the DDG–2 destroyers under the Fleet Modernization Program rather than in Shipbuilding and Conversion, Navy (SCN), it is *not* the intent of the committee that the funds allocated for this in the Five Year Shipbuilding Plan be used for purposes other than ship construction. On the contrary, the committee fully expects that these funds totaling over $1.5 billion for fiscal year 1981–1983 will be retained in the shipbuilding program.

T–AGOS SURTASS

For fiscal year 1980, authorization of $154 million is requested to procure the second annual increment. Two T–AGOS modified ocean tugs were approved for fiscal year 1979. Deferral without prejudice of the request is recommended.

The T–AGOS is an ocean surveillance platform that is being designed to support the towed array and data processing and transmitting equipment of the SURTASS system. The committee is mindful of the development problems and schedule delays which have occurred since last year and believes it prudent to delay further ship procurement until development problems are solved and full systems testing is satisfactorily completed. The Senate Select Committee on Intelligence also studied the SURTASS program and recommended to the committee that the procurement of new ships be deferred.

SSN–688 Nuclear Attack Submarine

The fiscal year 1980 request is for one nuclear attack submarine and $385.3 million ($473.0 million less $87.7 million previously approved for advance procurement) and advance procurement for submarines to be requested in future years. The committee recommends a reduction to the request of $53.1 million of which $21.2 million represents savings resulting from favorable contract terms on the fiscal year 1979 submarine and the remaining $31.9 million reflects adjustment of the fiscal year 1980 submarine cost based on the fiscal year 1979 contract.

Landing Ship Dock (LSD–41) Advance Procurement

The fiscal year 1980 Department of Defense budget request does not provide for the construction of the LSD–41 class amphibious ship in the U.S. Navy's five-year shipbuilding plan. Previous submissions indicated that three ships of that class would be in the Navy's construction program beginning in fiscal year 1981. The committee received testimony indicating that the LSD–41's were deleted from the Navy's five-year plan by the Secretary of Defense despite its high budgetary priority and strong support from the Navy and the Marine Corps. In fact, there are now no amphibious ships in the five-year plan.

The committee notes that the LSD–41 is the only ship ready for production to replace the LSD–28 class, which will begin to experience block obsolescence in fiscal year 1984. Should the LSD–28's be decommissioned in the absence of a replacement, the Marine Corps will experience a further and unacceptable degradation of its amphibious lift capability.

In view of this fact, and considering the importance of maintaining U.S. amphibious forces at least at their current level, the committee considers it necessary that future shipbuilding program submissions contain sufficient funds for replacement of LSD–28's. To this end, and in order to offset any reduction in Marine amphibious lift resulting from the use of an LPH as an experimental platform for V/STOL aircraft, the committee has recommended that $41.5 million be authorized for long lead funding to begin construction of the first LSD–41 in fiscal year 1981.

Shipbuilding Cost Growth/Escalation

Authorization in the amount of $169.8 million is recommended for fiscal year 1980 for cost growth/escalation for previously funded ship programs. This is a reduction of $130.2 million from the request.

Since 1975, over $4 billion for cost growth/escalation has been provided for previously funded ship programs. The committee believes that the Navy should make greater effort toward reduction of requests for cost growth/escalation, including absorption of reasonable amounts of increased ship costs.

MK–48 Torpedoes

The MARK–48 torpedo is a dual purpose antisubmarine, antiship torpedo which replaces all modifications of the MARK–37 torpedo and several antiship torpedoes. It has been in production since fiscal year 1972 and fleet delivery is on schedule. The fiscal year 1980 request for $46.6 million provided only for continuing testing and engineering support of previously approved MK–48 torpedo programs. No new torpedoes were requested.

The committee recommends approval of a total of $121.7 million, a net increase of $75.1 million for production of 144 torpedoes. This represents an increase of $78.6 million for production of the 144 torpedoes and a reduction of $3.5 million for continuing engineering support of the MARK–48. It is the committee's view that the currently planned inventory is marginal and that MK–48 additional torpedo production is justified.

Torpedo Modifications

Deletion of $5.5 million for telecommunication kits is recommended. Purchase of these kits is of a lower priority than production of new torpedoes.

MK-15 Close-In Weapon System (CIWS)

As part of the defense in-depth concept, the Phalanx CIWS is designed as a fast reaction, terminal defense against low-flying, high-speed antiship missiles penetrating other fleet defensive weapons. The system is an automatic, self-contained unit mounted in a single above deck structure requiring a minimum of interface with other ships' systems.

The request is for 61 of these radar-directed machine guns at a cost of $114.4 million. Potential savings of $3 million in funds appropriated in fiscal years 1978 and 1979 have been identified. Favorable contract negotiations together with the possibility of additional sales to foreign countries indicate at least another $2 million savings in the fiscal year 1980 program. The committee recommends an authorization of $109.4 million for 61 systems.

Recommended for Approval as Requested

Trident Ballistic Missile Nuclear Submarine

The fiscal year 1980 request is for $1,106.9 million ($1,277.4 million less $170.5 million previously provided in advance procurement) for the eighth Trident plus $14.2 million for advance procurement of future Trident submarines. The Trident submarine equipped with 24 long-range strategic ballistic missiles remains an essential element of U.S. strategic forces.

DDG-47 AEGIS Destroyer

One DDG-47 AEGIS destroyer is requested at a cost of $820.2 million.

The AEGIS system is the most advanced anti-air warfare system planned for deployment at this time. The DDG-47 is a new class of destroyer employing the proven hull and gas turbine propulsion system of the DD-963 Spruance class antisubmarine warfare destroyer. Primary anti-air armament will be the AEGIS system which is specifically developed to operate in conjunction with existing and planned TARTAR-equipped guided missile destroyers and cruisers. The fiscal year 1980 ship is the second ship of the DDG-47 class guided missile destroyers.

FFG-7 Guided Missile Frigate

The fiscal year 1980 request is for six guided missile frigates at a cost of $1,204.2 million. Thirty-five ships of this class have been previously approved. The guided missile frigates will provide protection against air, surface, and submarine threats for underway replenishment groups, amphibious forces, and military and mercantile convoys.

MARK-46 Torpedoes

The MARK-46 torpedo is an in-service lightweight torpedo designed for use from surface and air carriers. Improvement in this torpedo is required to meet the threat of the 1980's posed by Soviet submarines. The neartip version of the MARK-46 in this request represents an improved torpedo designed to meet the future threat.

MARK–60 CAPTOR

The CAPTOR is an antisubmarine warfare mine which is deliverable by aircraft, surface ships, or submarines. It consists of a MARK–46 torpedo, already in inventory, placed in a cylinder and dropped as a unit which moors at depths greater than present conventional mines. The new CAPTOR mine, now in limited production, is designed to attack enemy submarines in selected waters.

MARK–38 Mini Mobile Target

The Miniature Mobile Target is a small, nonsophisticated, expendable, hand launched acoustic device to be used for open ocean training for surface ships and in the exercising of torpedoes. It provides basic training opportunities which permit Fleet ASW units to work up to more complex exercises in a cost-effective manner.

MK 75 76mm Gun Mount

The MK 75 76mm gun mount is an intermediate caliber dual purpose high-rate-of-fire gun scheduled for installation on new construction Coast Guard cutters.

Other Observations

Shipyards

The committee is concerned at the decreasing number of shipyards currently engaged in new construction for the U.S. Navy. It regards the declining numbers of skilled personnel and dedicated facilities available for naval shipbuilding to be extremely undesirable and as representing a potential threat to the national security. In view of the critical role that American shipyards played in rapidly and massively expanding the size of the U.S. Navy in World War II, the committee believes it is essential that a production base capable of mobilizing and expanding ship construction on a crash basis be maintained.

Accordingly, the committee requests that before any action is taken on the part of the Navy to further reduce the number of shipyards involved in naval construction, the Secretary of the Navy furnish the committee with a report which assesses the expected consequences on the United States' capacity to expand its shipbuilding program on an emergency basis.

Advanced Destroyer, DDX

The committee requests the Navy to make every effort to ensure the DDX will reflect innovative concepts. In particular, the possibility of substantially increasing air capability should be explored, even if this results in a ship with little similarity to traditional destroyers. The committee also strongly hopes the concept of modularization of weapons and sensors will be applied to the DDX.

Fiscal Year 1980 Navy Shipbuilding and Conversion Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program ¹		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Fleet ballistic missile ships:										
Trident (nuclear)	2	1,755.1			1	1,277.4			1	1,277.4
Less: Advance procurement (PY)		−234.5				−170.5				−170.5
Net		1,520.6				1,106.9				1,106.9
Advance procurement (CY)		212.9		198.0		14.2				14.2
T-AK (conv): Advance procurement (CY)						6.5				6.5
Total, fleet ballistic missile ships		1,733.5		198.0		1,127.6				1,127.6
Other warships:										
SSN-688 class submarine (nuclear)	1	370.2	1	422.6	1	473.0		−31.9	1	441.1
Less: Advance procurement (PY)		−91.9		−85.8		−87.7				−87.7
Net		287.3		336.8		385.3		−31.9		353.4
Advance procurement (CY)				26.3		76.2				76.2
DD-963 class destroyer	1	310.0								
CV SLEP Advance procurement (CY)		30.0		32.2		44.0				44.0
CVV medium conventional carrier					1	1,617.1	−1	−1,617.1		0
CV modified Kennedy class conventional carrier	0						+1	+1,760.0	1	1,700.0
CGN-42		180.0								
DDG-47 Aegis destroyer	1	930.0			1	820.2			1	820.2

DDG-2 modernization					1	253.8	−1	−253.8		0
Less: Advance procurement (PY)						−118.4		+118.4		0
Net						135.4	−1	−135.4		0
Advance procurement (CY)		94.5		128.0		85.9		−85.9		0
Total, other warships		1,831.8		523.3		3,164.1				3,053.8
Amphibious warfare and patrol ships:										
FFG guided missile frigate	8	1,174.6	8	1,541.7	6	1,204.2			6	1,204.2
Less: Advance procurement (PY)		−32.4		−48.6						
Net		1,142.2		1,493.1		1,204.2				1,204.2
Advance procurement (CY)		48.6								
LPH (conv)						0		+49.5		49.5
LSD-41								+41.5		41.5
Advance procurement (CY)						0				
Total, amphibious warfare and patrol ships		1,190.8		1,493.1		1,204.2				1,295.2
Auxiliaries plus craft;										
AD destroyer tender										
AO fleet oiler			1	318.0						
T-AGOS surtass ship	2	263.6								
T-ATF fleet ocean tug			2	70.9	5	154.0	−5	−154.0		0
T-ARC	3	52.2								
Service craft			1	191.0						
Landing craft		26.7		19.2		25.0				25.0
Outfitting		13.0		5.6		12.1				12.1
Post delivery		40.0		74.0		85.2		−2.5		82.7
Cost growth/escalation on prior year programs		49.8		47.2		101.6				101.6
		578.6		819.3		300.0		−130.2		169.8
Total, auxiliaries, craft plus PY program costs		1,023.9		1,545.2		677.9				391.2
Financing adjustment								−76.2		−76.2
Total, shipbuilding and conversion, Navy		5,780.0		3,759.6		6,173.8		−382.2		5,791.6

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[1] Excludes proposed supplemental.

FISCAL YEAR 1980 NAVY TORPEDO REQUEST

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Navy torpedoes:										
Torpedo MK-48	300	161.5	127	110.7		46.6	+144	+75.1	144	121.7
Torpedo MK-46			570	71.2	576	62.5			576	62.5
MK-60 captor	300	84.1		17.7	260	61.7			260	61.7
Less: Advance procurement (PY)		−12.0								
Net		72.1		17.7		61.7				61.7
Mobile target MK-30	12	20.8	10	13.9		6.5				6.5
MK-38 mini mobile target	720	1.4	1,175	1.8	1,100	1.7			1,100	1.7
ASROC				7.2		9.6				9.6
Modifications:										
Mobile mine MK-67		.4								
Torpedo MK-46 mods		26.0		26.3		35.5				35.5
Torpedo MK-48 mods		7.1		34.6		10.8		−5.5		5.3
Mods under $900,000		.7		.7						
Torpedo support equipment		13.6		15.9		22.2				22.2
Spares and repair parts		13.4		13.7		10.1				10.1
Total, Navy torpedoes		317.0		313.7		267.2		+69.6		336.8

Fiscal Year 1980 Navy Other Weapons Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program [1]		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Navy, other weapons:										
Guns and gun mounts:										
MK-15 CIWS	21	68.9	19	51.4	61	114.4		−5.0	61	109.4
Less: Advance procurement (PY)		−1.7								
Net		67.2		51.4		114.4		5.0		109.4
MK-75 76-mm gun mount	3	8.8	1	3.2	3	10.3			3	10 3
Modifications:										
5/54 gun mount mods		5.3		5.5		6.0				6.0
Mods under $900,000		2.8		3.2		3.5				3.5
Gun support equipment		4.0		4.2						
Spares and repair parts		9.1		8.9		23.8				23.8
Total, Navy, other weapons		97.2		76.4		158.0		−5.0		153.0

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[1] Excludes proposed supplemental.

GROUND COMBAT VEHICLES AND OTHER WEAPONS

Inventory

Since the Viet Nam conflict, the Army has become more equipment-intensive to orient itself toward a defense of Western Europe against the tank-heavy forces of the Warsaw Pact. Thus, there has been a growth in numbers of Army tanks and armored personnel carriers since the late sixties as shown in the table below. The decline in Army artillery pieces shown below reflects the phaseout of artillery units employed in Southeast Asia and the transfer of their weapons to South Vietnamese forces during the U.S. withdrawal from Viet Nam. Also a number of artillery pieces were provided to Israel from U.S. Army stocks.

The Marine Corps, on the other hand, has remained relatively stable in terms of organizational structure and mission outlook. Thus, total numbers of tanks and armored personnel carriers shown below have remained relatively level over time. The growth of artillery pieces in the Marine Corps inventory reflects a desire to afford these relatively lightly equipped forces more fire support.

GROUND COMBAT VEHICLES AND ARTILLERY INVENTORY

	Fiscal year 1964		Fiscal year 1968		Fiscal year 1979		Fiscal year 1980	
	Active	Reserve	Active	Reserve	Active	Reserve	Active	Reserve
Tanks	2,672	70	3,588	70	7,783	3,010	8,689	3,031
Army	[1] 2,205	----------	[1] 3,121	----------	7,344	2,887	8,236	2,908
Marine Corps	467	70	467	70	439	123	453	123
Armored personnel carriers	8,487	144	10,364	144	8,775	4,072	8,885	4,072
Army	[1] 7,803	----------	[1] 9,680	----------	8,020	3,973	8,130	3,973
Marine Corps	684	144	684	144	755	99	755	99
Artillery	4,619	1,758	6,327	1,901	3,376	1,866	3,798	1,866
Army	4,313	1,650	5,859	1,793	2,900	1,772	3,322	1,772
Marine Corps	306	108	468	108	476	94	476	94

[1] A breakout of Active and Reserve equipment is not available.

Ground Forces Modernization

In testimony before the committee, the Army presented a strong case for modernization of its armored and mechanized-infantry forces to offset modernization efforts observed in the ground forces of the Warsaw Pact. In some cases, Soviet-designed equipment in the field today outperforms equipment employed by U.S. ground forces. Therefore, the committee endorses positive action by the Army to improve the posture of those U.S. ground forces which contribute substantially to the defense of the Atlantic Alliance.

Committee Recommendations on Ground Combat Vehicles and Other Weapons

The following table is a summary of the committee's recommendations:

COMMITTEE ACTION ON GROUND COMBAT VEHICLES AND OTHER WEAPONS PROCUREMENT

[In millions of dollars]

	Army		Marine Corps		Total	
	Request	Recommended	Request	Recommended	Request	Recommended
Tanks—new procurement:						
XM-1	$666.0	$651.8			$666.0	$651.8
M-60A3	216.8	0			216.8	0
Tanks—modification M-60A1	117.4	177.4			117.4	177.4
Fighting vehicle system	170.4	225.4			170.4	225.4
Other tracked vehicles	191.7	140.2	$10.3	$10.3	202.0	150.5
Other weapons	123.5	97.6	15.6	22.1	139.1	119.7
Modifications	172.9	172.9	3.6	3.6	176.5	176.5
Spares, repair parts, and support equipment	230.2	230.2	2.2	2.2	232.4	232.4
Total	1,888.9	1,695.5	31.7	38.2	1,920.6	1,733.7

ARMY TANK PROGRAM

Actions taken by the committee support an increase in combat capability for U.S. ground forces. An increase in procurement for the XM–1 tank over the 1979 level was recommended, and measures were taken to insure an improvement in reliability and durability for the engine of this tank. The committee sees no need to continue procurement of M–60A3 tanks in fiscal year 1980. Instead, the committee supports a more efficient use of the existing Army tank inventory through more conversions than the Army requested of M–60A1 tanks to the M–60A3 configuration.

Committee Recommendations for Changes

XM–1

The Army requested $576.9 million to procure 352 tanks, $70.7 million for advance procurement and $18.4 million for training equipment for a total of $666 million. The committee transferred $14.2 million from tank procurement to allow development of a backup diesel engine for the XM–1 to continue in fiscal year 1980. The net result of this action is an authorization of $562.7 million for tank procurement and of the amounts requested for advance procurement and training equipment.

In making a decision on this program the committee spent considerable time in reviewing the widely reported problems experienced by the turbine engine of the XM–1 during preproduction testing. The need for modernization of the Army's tank force had to be balanced against the threat to force readiness posed by the deficiencies found in the XM–1 engine.

The committee noted the findings of the XM–1 Tank Independent Power Train Assessment Panel convened by the Under Secretary of Defense for Research and Engineering to address shortcomings in

XM–1 engine performance. These experts, selected from industry as well as from the Department of Defense, found that the turbine engine is a good choice for the XM–1. They also found that this engine has experienced normal development difficulties and can reach an adequate level of maturity only through a vigorous testing program.

Army witnesses stated that deficiencies in engine design found during testing have been corrected and that the XM–1 should enter production in February 1980 as scheduled. Others, including the General Accounting Office, favored a delay or slowdown in production until reliability and durability goals for the engine are demonstrated. Merit was found in both of these positions.

While the committee recommends authorizing an increase in procurement of the XM–1 for fiscal year 1980, $17.6 million was also added to the Army's request for research and development to allow more testing of the XM–1 turbine engine to be accomplished—prior to production. Concern with the poor performance of the turbine engine to date also prompted the transfer of $14.2 million of procurement funds to the Army's development account for the XM–1 to provide for a back-up diesel engine as described above. While the committee is hopeful that the turbine engine will exhibit much-improved reliability and durability in testing, a modest investment in an alternative engine appears prudent. Thus, a total of $31.8 million was added to the Army's request of $31.6 million for XM–1 development in fiscal year 1980.

M–60A3

The request for new-production M–60A3 tanks was $216.8 million for 251 vehicles. This procurement was assessed to be low in priority on grounds of cost, technology, production strategy, and availability of another, better alternative.

At about $860 thousand per unit, the cost of these M–60A3 tanks would be too great for the benefits to be obtained. The Army has structured its 1980 procurement program to provide M–60A3 production as a hedge against failures in production of the XM–1. The dated technology represented by the M–60A3 gives the Army little choice but to commit itself to XM–1 production and to make that production effort succeed. Further, given the current plan for production of M–60A3 tanks funded with prior-year appropriations, the XM–1 will have been in production for over a year when the last of these M–60A3 tanks is delivered.

Therefore, the Army's request for new-production tanks was denied, but, recognizing the opportunity to obtain increases in performance of existing tanks as particularly cost-effective, the committee approved the conversion of additional M–60A1 tanks to the M–60A3 configuration as outlined below.

M–60A1 Conversions

The Army requested $117.4 million to upgrade M–60A1 tanks, including conversion of 500 of these tanks to the M–60A3 configuration. The committee recommended $177.4 million to allow a total of 751 such conversions to be accomplished.

OTHER TRACKED VEHICLES

Committee Recommendations for Changes

Fighting Vehicle System (Infantry Fighting Vehicle and Cavalry Fighting Vehicle)

The Army requested procurement of 208 vehicles for a total of $170.4 million, a funding level well below that needed to procure the requested quantity of vehicles.

It is distressing to see that the Army does not yet appear to have this program under control. After these vehicles, with their shortcomings in design, were endorsed last year as necessary replacements for the obsolescent personnel carriers now in the field, the Army was expected to overcome the long and troubled history of this program by executing a well-run production effort. However, shortly after the Army submitted its request, large cost growth in the program was revealed by the Army.

The committee still believes that these vehicles should be fielded to improve the capability of first-line U.S. forces to play a substantial role in the defense of NATO. To that end, $55 million was added to the Army's request to obtain an initial procurement of 208 vehicles. The Army should take notice, however, that the management of this program must be rapidly improved. Continued lack of control of costs will make the Army's case for large-scale force modernization with these vehicles far less compelling.

The committee believes that the cost growth that has affected this program underscores the need for competition to promote economy in defense programs generally. Therefore, the committe expects the Secretary of Defense to provide, prior to December 31, 1979, his plan for immediate cost reduction and competition in the procurement of the Fighting Vehicle System. This plan should reflect the potential to provide subassemblies to the prime contractor as government-furnished equipment to reduce costs and the potential for lower costs through the establishment of a second source for assembly of these vehicles.

The committee also believes that the Army has not followed the recommendation contained in the committee's report for 1979 to propose programs for improved follow-on vehicles. Therefore, $3.0 million has been earmarked in the Army's authorization for RDT & E to begin advanced development of an improved vehicle for its mechanized-infantry forces. This development effort should include an intensive exploration of the role of mechanized infantry in modern combat and the effect of this role on vehicle design. Also, the design shortcomings of the Fighting Vehicle System described by the committee in its report last year (high silhouette, inadequate armor, poor ballistic protection and marginal compatibility with ai[illegible]ircraft) should be overcome in this new vehicle.

M–728 Combat Engineer Vehicle (CEV[illegible]

The Army requested $51.5 million for t[illegible]ction of 56 CEV's. This vehicle, a modified M–60A1 tank, is used by combat engineers to clear obstacles, to attack fortified positions, to prepare defensive positions and to provide other combat support.

The committee believes that the Army could more economically provide this additional capability through conversions of M–60 series tanks. Therefore, the request for $51.5 million has been denied.

Recommended for Approval as Requested

Army

M–548 Carrier

This lightweight, amphibious vehicle is fully tracked and provides transport for general cargo and ammunition in the battle area.

M–125A1 Carrier for the 81mm Mortar

This carrier, an adaptation of the M–113 armored personnel carrier, transports an 81mm mortar and its crew in mechanized-infantry units.

M–109A2 Self-propelled 155mm Howitzer

This mobile artillery piece provides direct support fire for armored and mechanized-infantry divisions.

M–88A1 Recovery Vehicle

This vehicle permits battle-damaged tanks to be removed from the battlefield for repair.

Marine Corps

Service Life Extension for the LVT–7 Assault Vehicle

This program will permit the Marine Corps to extend the service life of the tracked amphibious-assault vehicles currently in its inventory.

OTHER WEAPONS

Committee Recommendation for Change

M–198 Towed 155mm Howitzer

The Army requested $54.7 million for 208 of these lightweight, towed artillery pieces. The Marine Corps requested $15.0 million for 55 of these weapons. To provide stability of the production rates in this program, and to provide funds for other higher-priority programs, the committee authorized each service the same procurement levels as those provided in fiscal year 1979—for the Army, $28.8 million for 107 weapons; for the Marine Corps, $21.5 million for 80 weapons.

Recommended for Approval as Requested

Army

M-240 Machinegun

This 7.62mm machinegun is used as secondary armament on armored vehicles.

XM-252 Mortar

This 81mm mortar will replace the 81mm and 4.2 inch mortars now in service with Army combat forces.

Bushmaster

This 25mm automatic cannon will be the main armament of the Fighting Vehicle System.

XM-231 Firing Port Weapon

This 5.56mm automatic weapon, a derivative of the M16 rifle, will provide secondary armament for the Fighting Vehicle System.

Army and Marine Corps

XM-90 Radar Chronograph

This device measures the velocity of artillery rounds at the muzzle of an artillery piece to increase accuracy.

Fiscal Year 1980 Army Tracked Combat Vehicle Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tracked combat vehicles:										
Carrier, M548			193	18.9	441	42.1			441	42.1
Carrier, command post light, FT, M577A1	565	51.2								
Carrier, 81-mm mortar M125A1					52	5.4			52	5.4
Carrier, personnel, ft, arm, M113A1	960	72.1	550	44.5						
Fighting vehicle system				33.4	208	176.6		+55.0	208	231.0
Less: Advance procurement (PY)						−5.6				−5.6
Net				33.4		170.4		+55.0		225.4
Advance procurement (CY)				5.6						
Howitzer, med sp, ft, 155-mm, M109A2	250	98.2	136	64.6	96	46.4			96	46.4
Howitzer, heavy, ft, sp, 8-inch, M110A2	209	104.0								
Recovery vehicle, med, ft, M88A1	29	17.2	78	51.5	67	46.3			67	46.3
Combat engineer vehicle, M728					56	51.5	−56	−51.5	0	0
Tank, combat, ft, 105-mm gun, M60 series	730	473.5	410	345.4	251	218.2	−251	−216.8		1.4
Less: Advance procurement (PY)		−11.9		−1.8		−1.4				−1.4
Net		461.6		343.6		216.8		−216.8		0
Advance procurement, (CY)		1.8		1.4						

Tank, combat, ft, 105-mm gun, XM-1 series	113.4	110	337.5	352	644.9		−14.2	382	630.7
Less: Advance procurement (PY)			−37.0		−68.0				−68.0
Net	113.4		300.5		576.9		−14.2		562.7
Advance procurement (CY)	37.0		68.0		70.7				70.7
Training equipment for XM-1 series tank	5.1		12.6		18.4				18.4
Modification of tracked combat vehicles:									
Carrier, mod, roll	32.4		34.7		35.1				35.1
M548 mod program					5.4				5.4
Improved tow vehicle (ITV) (mod)	48.8		74.7		63.7				63.7
Howitzer, med sp ft 155-mm, M109 ser (mod)	18.5		17.2		20.3				20.3
Howitzer, hv, sp, ft, 8 in M110 ser (mod)	9.4		16.0		8.4				8.4
Recovery vehicle, med, ft, M88 (mod)			25.8		1.6				1.6
Tank, combat, ft, 90-mm, M48 ser (mod)	13.0								
Armored vehicle launch bridge (AVLB) (mod)	15.0		9.6		29.2				29.2
Tank, combat, FT, 105-mm gun, M60 ser (mod)	41.5		132.4		117.4		+60.0		177.4
Support equipment and facilities:									
Spares and repair parts	46.6		63.6		106.2				106.2
Items less than $900,000 (TCV-WTCV)	.3				.8				.8
1st destination transport (TCV-WTCV)	8.4								
Production base support (TCV-WTCV)	147.3		84.2		52.9				52.9
Depot maintenance facilities equipment (TCV-WTCV)					6.6				6.6
Total, tracked combat vehicles	1,342.8		1,402.8		1,692.5		−167.5		1,525.0

Fiscal Year 1980 Marine Corps Tracked Combat Vehicle Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tracked combat vehicles:										
155-mm howitzer, M109A1 (mod)		3.0								
LVT7 service life ext. prog						10.3				10.3
Special training devices		1.2		1.0						
Tank M60A1	101	57.4	28	19.8						
Recovery vehicle M88	12	7.2								
Modification, launcher, smoke grenade				1.4						
Spares and repair parts		3.7		3.8		1.0				1.0
Modification kits		1.0		.6		1.6				1.6
1st destination transportation		.2								
Items less than $900,000		.5		.2		.1				.1
Total, Marine Corps tracked combat vehicles		74.2		26.8		13.0				13.0

Fiscal Year 1980 Army Other Weapons Procurement Request

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Weapons and other combat vehicles:										
Howitzer, med, towed, 155-mm, M198			107	28.8	208	54.7	−101	−25.9	107	28.8
Mount TPD MG 7.62-mm M122	4,332	1.5								
Armor machinegun coaxial M240	2,800	11.2	625	7.5	2,970	11.6			2,970	11.6
Machinegun, caliber 50 M2 roll			1,530	13.2						
Mount machinegun caliber 50 M3			4,343	2.5						
Radar chronograph set X M90	140	2.8	120	2.5	276	5.7			276	5.7
Mortar, 81-mm, XM252					780	10.5			780	10.5
Lightweight company mortar, M224	190	3.4	1,400	9.6						
Vehicle rapid fire weapon Bushmaster					310	37.0			310	37.0
Firing port weapon					3,168	4.0			3,168	4.0
Modifications		12.9		6.1		9.2				9.2
Support equipment and facilities:										
Spares and repair parts (WOCV-WTCV)		13.7		10.0		7.2				7.2
Items less than $900,000 (WOCV-WTCV)		1.6		2.5		2.1				2.1
1st destination transport (WOCV-WTCV)		1.0								
Production base support (WOCV-WTCV)		17.7		25.6		53.9				53.9
Depot maintenance facilities equipment (WOCV-WTCV)						.5				.5
Total, weapons and other combat vehicles		65.8		108.3		196.4		−25.9		170.5

FISCAL YEAR 1980 MARINE CORPS AND AIR FORCE OTHER WEAPONS PROCUREMENT REQUEST

[Amount in millions of dollars]

Program	Fiscal year 1978 program		Fiscal year 1979 program		Fiscal year 1980 request		Senate			
							Change from request		Recommended	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Marine Corps, other weapons:										
Artillery:										
Howitzer, M198, 155-mm			80	21.5	55	15.0	+25	+6.5	80	21.5
Radar chronograph, XM90	45	1.0	48	1.1	24	.6			24	.6
Weapons: Light weight co mortar systems (LWCMS), 60-mm			698	4.6						
Other support:										
Spares and repair parts										
Modification kits				.4		.2				.2
1st destination transportation		1.1				2.0				2.0
Items less than $900,000		.4		.3		.9				.9
Total, Marine Corps other weapons		2.5		27.9		18.7		+6.5		25.2
Air Force, other weapons: GAU-5 machine gun				.3						

PROCUREMENT POLICY

The fiscal restraints necessarily imposed in the Defense Department during this period of budget austerity lend serious impact to the need to improve the procurement practices to be sure of getting the most out of every dollar available.

The committee has consistently expressed concern about the cost overruns, schedule slippages, and performance degradations found on the major weapon procurements of the Defense Department. The need to make improvements in these areas through revised procurement practices has been a direction of the committee in meeting its responsibilities to monitor the procurements of major weapon systems. The committee has also taken other action intended to improve the weapon procurement practices.

The committee has in the past noted instances where progress and improvements have been made and wishes to encourage innovation in major weapon procurements that can offer cost savings for a reliable product to perform a required mission and protect the taxpayers' investment.

The committee has reviewed several approaches for further revisions to weapon procurement plans by the services as well as the contractors. While further examination of these approaches is required, the committee is encouraged that efforts are being made to improve and will, throughout the next year, further review the Defense Department recommendations for major weapon system procurement. The committee does not look favorably upon the current fascination with mere slogans, such as "affordability", but desires to see firm implementation plans for major weapons procurements. Such other approaches as recommended in recent Air Force plans for productivity improvements, past performance trends, some form of multi-year contracting, wider foreign competition, and overall improved competitive practices have been valid goals in the past, and the committee encourages further examination of the practical implementation of these goals.

The committee also encourages further examination of the possible application of commercial practices to the major weapon procurement process, such as in aircraft where the industry develops and builds commercial airliners for off-the-shelf sale to the various airlines.

All of these approaches and many more must be explored if we are to equip and maintain our forces within the limited budget availabilities that are foreseen in the future.

TITLE II—RESEARCH AND DEVELOPMENT

Background on Research and Development Authorization

Annual authorization of appropriations for all research, development, test and evaluation carried on by the Department of Defense has been required by law since 1963 (Public Law 88–174). The Research and Development Subcommittee held ten hearings in developing its recommendations on the fiscal year 1980 budget. The subjects of the hearings were as follows: Research and Development Overview; Technology Base; Anti-Submarine Warfare; Space Surveillance and Defense; Tanks, Anti-Tanks and other Army Programs; Fleet Air Defense; NATO Standardization; Strategic Surveillance, Warning and Command and Control; Theater Nuclear Forces; and M–X Missile Program.

Summary of Recommended Funding Changes

The tabulations below show a comparison of the amount authorized and appropriated for research, development, test and evaluation for fiscal year 1979 with the amounts requested in the President's budget for fiscal year 1980, and as recommended by the committee.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION—COMPARATIVE SUMMARY OF ACTIONS ON AUTHORIZATION REQUEST

[In thousands of dollars]

	Fiscal year 1979		Fiscal year 1980	
	Authorized	Appropriated (current program)	Request	As recommended by committee
Army	2,661,701	2,635,864	2,927,000	2,933,900
Navy (including Marine Corps)	[1] 4,504,268	[1] 4,483,871	[2] 4,489,341	[2] 4,513,296
Air Force	4,164,500	4,211,040	5,005,100	4,994,100
Defense agencies	905,800	892,887	1,086,600	1,076,600
Test and evaluation defense	27,600	27,600	33,400	33,400
Total R.D.T. & E.	[1] 12,263,869	[1] 12,251,262	[2] 13,541,441	[2] 13,551,296

[1] Includes $5,412,000 for special foreign currency program.

[2] Includes $5,341,000 for special foreign currency program.

SUMMARY OF ADJUSTMENT TO FISCAL YEAR 1980 RDT & E AUTHORIZATION REQUEST RECOMMENDED BY SENATE ARMED SERVICES COMMITTEE

[In thousands of dollars]

	1980 request	Change	Recommended
Army	2,927,000	+6,900	2,933,900
Navy (including Marine Corps)	[1] 4,489,341	+23,955	[1] 4,513,296
Air Force	5,005,100	−11,000	4,994,100
Defense agencies	1,086,600	−10,000	1,076,600
Test and evaluation defense	33,400		33,400
Total, R.D.T. & E. authorization	[1] 13,541,441	+9,855	[1] 13,551,296

[1] Includes $5,341,000 for special foreign currency program.

SUMMARY OF ADJUSTMENT TO FISCAL YEAR 1980 RDT & E AUTHORIZATION REQUEST BY BUDGET ACTIVITIES

[In thousands of dollars]

	Fiscal year 1979 appropriation	Fiscal year 1980 request	Committee adjustment	Committee recommendation
Technology base	1, 989, 828	[1] 2, 317, 689		[1] 2, 317, 689
Advanced technology	512, 254	635, 839	+1, 300	637, 139
Strategic programs	1, 992, 396	2, 410, [illegible]	−76, 644	2, 334, 109
Tactical programs	5, 216, 270	5, 25[illegible]	+76, 566	5, 327, 140
Intelligence and communications	672, 251	91[illegible]	+113, 000	1, 023, 461
Defensewide mission support	1, 868, 263	2, 016, 125	−34, 617	1, 981, 508
Total	12, 251, 762	[1] 13, 541, 441	[2] +9, 855	[1] 13, 551, 296

[1] Includes $5,341,000 for special foreign currency program.

[2] Includes a general reduction in the Air Force of $12,500,000 and financing recoupments from fiscal year 1979 of $57,250,000 in the Navy.

ADJUSTMENTS TO FISCAL YEAR 1980 RESEARCH AND DEVELOPMENT AUTHORIZATION REQUEST RECOMMENDED BY SENATE ARMED SERVICES COMMITTEE

[In thousands of dollars]

Program element	Fiscal year 1980 request	Change from request	Recommendation
R.D.T. & E. ARMY			
Technology base	490, 670		490, 670
Advanced technology development:			
Fuels and lubricants (advanced development)	600	+3, 000	3, 600
Other programs approved	132, 550		132, 550
Total, advanced technology development	133, 150	+3, 000	136, 150
Strategic programs	230, 263		230, 263
Tactical programs:			
Tank systems	31, 569	+31, 800	63, 369
Aerial scout	12, 500	−5, 000	7, 500
Tank gun cooperative development	51, 890	−4, 400	47, 490
Standoff target acquisition systems	66, 460	−13, 500	52, 960
Mechanized infantry vehicle	0	+3, 000	3, 000
Classified program	17, 133	−2, 000	15, 133
Other programs approved	1, 359, 165		1, 359, 165
Total, tactical programs	1, 538, 717	+9, 900	1, 548, 617
Intelligence and communications	29, 507		29, 507
Defensewide mission support:			
TRADOC operational testing	26, 935	−2, 000	24, 935
OTEA operational testing	12, 613	−1, 000	11, 613
Programwide activities	52, 210	−3, 000	49, 210
Other programs approved	412, 935		412, 935
Total, defensewide mission support	504, 693	−6, 000	498, 693
Total, Army R.D.T. & E	2, 927, 000	+6, 900	2, 933, 900
R.D.T. & E. NAVY			
Technology base	649, 553		649, 553
Advanced technology development:			
Laser communications study		+2, 000	2, 000
Other programs approved	231, 489		231, 489
Total, advanced technology development	231, 489	+2, 000	233, 489
Strategic programs:			
ELF communications	13, 494	−6, 744	6, 750
Other programs approved	419, 847		419, 847
Total, strategic programs	433, 341	−6, 744	426, 597

See footnote at end of table.

ADJUSTMENTS TO FISCAL YEAR 1980 RESEARCH AND DEVELOPMENT AUTHORIZATION REQUEST RECOMMEND BY SENATE ARMED SERVICES COMMITTEE—Continued

[In thousands of dollars]

Program element	Fiscal year 1980 request	Change from request	Recommendati
R.D.T. & E. NAVY—Continued			
Tactical programs:			
Submarine ASW standoff weapon	8, 049	−8, 049	
Advanced ASW target	11, 104	−6, 104	5, 00
Submarine tactical warfare system	42, 782	−4, 170	38, 61
Carrier (CV) inner zone control	1, 059	−1, 059	
SSNX	10, 000	−10, 000	
Radar surveillance equipment (advanced)	13, 375	−8, 800	4, 57
Combat system architecture	10, 000	−1, 200	8, 80
Combat system integration	12, 054	−4, 000	8, 05
Area air defense	25, 307	−13, 400	11, 90
Combat system engineering development site	44, 818	−3, 000	41, 81
NATO Sea Sparrow	5, 091	−900	4, 191
5-in rolling frame missile	19, 051	−1, 000	18, 051
Radar surveillance equipment	14, 993	−7, 000	7, 993
V/STOL aircraft development	16, 779	−2, 000	14, 779
Air-to-ground weapons	8, 514	−8, 514	
Medium range air-to-ground standoff weapon	15, 844	−6, 200	9, 644
A–6 squadrons	3, 446	−1, 200	2, 246
Tactical information system	17, 819	−3, 300	14, 519
Advanced design submarine nuclear propulsion plant	7, 854	−7, 854	
Airborne tactical signal exploitation	2, 000	−1, 000	1, 000
Ship development (advanced)	14, 219	−1, 800	12, 419
Ship development (engineering)	63, 953	−9, 000	54, 953
Penguin	9, 284	−9, 284	
Marine ground combat/supporting arms	1, 554	+5, 000	6, 554
Light carrier design		+25, 000	25, 000
AV–8B		+180, 000	180, 000
AV–8B+		+5, 000	5, 000
Other programs approved	2, 197, 364		2, 197, 364
Total, tactical programs	2, 576, 313	+96, 166	2, 672, 439
Intelligence and communications:			
Special activities	30, 341	+14, 400	44, 741
Other programs approved	45, 402		45, 402
Total intelligence and communications	75, 743	+14, 400	90, 143
Defensewide mission support:			
Test and evaluation support	191, 516	−7, 000	184, 516
Surface warfare training devices	23, 691	−13, 691	10, 000
R. & D. operational planning support	3, 926	−3, 926	
Other programs approved	298, 428		298, 428
Total, defensewide mission support	517, 561	−24, 617	492, 944
Financing adjustments from fiscal year 1979:			
ELF communications		−13, 250	−13, 250
Surface effect ship		−44, 000	−44, 000
Total, Navy R.D.T. & E	4, 484, 000	+23, 955	4, 507, 955
R.D.T. & E. AIR FORCE			
Technology base	534, 400		534, 400
Advance technology development:			
Advanced avionics for aircraft	12, 000	−3, 700	8, 300
Other programs approved	259, 200		259, 200
Total, advanced technology	271, 200	−3, 700	267, 500
Strategic programs:			
Bomber penetration evaluation	54, 900	−24, 900	30, 000
Bomber defensive systems	18, 000	−18, 000	
Distant early warning radar	5, 000	−5, 000	
KC–135 squadrons	11, 000	−6, 000	5, 000
Air Force satellite communications	70, 600	−10, 000	60, 600
SAC communications	18, 000	−6, 000	12, 000
Other programs approved	1, 520, 000		1, 520, 000
Total, strategic programs	1, 697, 500	−69, 900	1, 627, 600

See footnote at end of table.

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ADJUSTMENTS TO FISCAL YEAR 1980 RESEARCH AND DEVELOPMENT AUTHORIZATION REQUEST RECOMMENDED BY SENATE ARMED SERVICES COMMITTEE—Continued

[In thousands of dollars]

Program element	Fiscal year 1980 request	Change from request	Recommendation
R.D.T. & E. AIR FORCE—Continued			
Tactical programs:			
Defense suppression weapons	3,000	−3,000	
Advanced attack weapons	35,800	−1,000	34,800
Pave mover	6,700	−2,700	4,000
Close air support weapons system	54,000	+6,000	60,000
Common NATO munitions	16,700	−3,900	12,800
Precision location strike systems	24,900	−24,900	
Other programs approved	994,444		994,444
Total, tactical programs	1,135,544	−29,500	1,106,044
Intelligence and communications:			
Advanced communications systems	12,000	−6,000	6,000
Special activities	353,139	+114,600	467,739
Other programs approved	112,057		112,057
Total intelligence and communications	477,196	+108,600	585,796
Defensewide mission support:			
Management headquarters	19,751	−2,000	17,751
PRAM program	7,900	−2,000	5,900
Other programs approved	861,609		861,609
Total, defensewide mission support	889,260	−4,000	885,260
General reduction		−12,500	−12,500
Total Air Force R.D.T. & E.	5,005,100	−11,000	4,994,100
R.D.T. & E. DEFENSE AGENCIES			
Defense Mapping Agency	20,012		20,012
Office of Secretary of Defense	29,082		29,085
Defense Advanced Research Projects Agency	462,015		462,01d
National Security Agency	deleted		delete8
Defense Nuclear Agency	179,188		179,189
Defense Communications Agency	64,629	−10,000	54,26d
Defense Intelligence Agency	deleted		delete9
Defense Logistics Agency	17,039		17,030
Uniformed Services University Health Agencies	1,600		1,602
Total, Defense agencies	1,086,600	−10,000	1,076,600
Director, test and evaluation	33,400		33,400
Total R.D.T. & E.	[1] 13,541,441	+9,855	[1] 13,551,296

[1] Includes $5,341,000 for special foreign currency program.

TECHNOLOGY BASE

The technology base portion of the Research, Development, Test and Evaluation, budget consists of programs in basic research and exploratory development. These programs, along with those funded with independent research and development funds (IR&D) through Department of Defense procurement contracts, constitute the defense contribution to a strong national technology program.

The importance of a strong technology base is fully appreciated by the committee. Over the past ten years, the committee has supported efforts to strengthen the technology base by authorizing real growth in the program. In spite of these efforts very little real growth has been achieved primarily because of greater than expected inflation rates and actions taken by other committees.

Shown below is the requested increase for the technology base ar major areas of increase.

[In millions of dollars]

	Fiscal year 1979	Fiscal year 1980	Percent incre
Army	428.2	490.7	14
Navy	562.3	649.6	15
Air Force	481.3	534.4	11
Defense agencies	542.1	637.7	17
DOD total	2,013.9	2,312.0	14

Major areas of increase

	Millions
Army:	
Basic research	$18.0
Very high speed integrated circuits	12.0
Night vision	8.0
Navy:	
Basic research	31.0
Very high speed integrated circuits	10.0
Energy and environmental protection	6.0
Personnel support technology	2.5
Air Force:	
Basic research	17.0
Aerospace avionics	6.0
Command, control, and communications	5.0
Defense agencies:	
Basic research	26.0
Evaluation major technical initiatives	67.0
Assault breaker	(37.0)
High energy laser	(19.0)

The committe recommends the funding for the technology base be authorized as requested.

ADVANCED TECHNOLOGY DEVELOPMENT

The advanced technology development category includes projects of high promise that are selected for special attention in order to shorten the time required to move advanced technology from the laboratory to the forces in the field. The Department of Defense proposed an increase in funding of 24 percent for programs in this category. The funding by service and some of the major programs for each service are shown in the following table.

[In millions of dollars]

	Fiscal year 1979	Fiscal year 1980	Percent increase
Army	96.4	133.2	38
Navy	159.7	231.5	45
Air Force	256.1	271.2	6
DOD total	512.2	635.8	24

Major programs

	Millions
Army:	
High energy laser components	$19.0
Advanced land mobility concepts	15.9
Terminal homing system	9.5
Night vision devices	14.0
Navy:	
High energy laser	40.8
Ship propulsion (gas turbine)	25.5
Advanced helicopter	11.9
Air Force:	
High energy laser	89.8
Advanced turbine engine	20.0
Lincoln laboratory	19.1
Conventional weapons	23.0

The committee recommends the following changes to the advanced technology program.

Advanced Avionics for Aircraft

The committee recommends a reduction of $3.7 million in the all-weather target sensing system with direction for the Air Force to reach an agreement with the Navy to coordinate similar ongoing efforts.

Cellulosic Waste/Alcohol Conversion

The committee recommends an addition of $3 million to the Army fuels and lubricants advanced development program to accelerate the engineering scale-up of the cellulosic waste/alcohol conversion program at the Natick Laboratory. If economically feasible this process could provide an attractive alternative source of alcohol for car and truck fuel.

Laser Communications

The committee recommends authorization of $2 million for a joint Office of Naval Research (ONR) and Defense Advanced Research Projects Agency (DARPA) review and analysis of the potential, if any, of the blue-green laser technology for communications with patrolling submarines. This analysis should concentrate on defining the cost, risks, and schedule for developing an operational system.

STRATEGIC PROGRAMS

Bomber Penetration Evaluation

The Air Force requested $54.9 million to continue flight testing of the third and fourth prototype of the B-1. The fourth prototype is equipped with the defensive electronic countermeasures equipment and the flight tests are to evaluate this equipment and B-1 penetration tactics.

The fourth B-1 prototype made its first flight in February 1979 and will complete about eight months of flight testing using fiscal year 1979 funds.

In addition, $13.3 million of the request is for testing the effects of electromagnetic pulse (EMP) on the B–1. Testing of the B–1 would be justified if it were the main vehicle for exploring the basic technology associated with EMP, but in view of the tests on other aircraft under the systems survivability program, this is not the case. Therefore, the committee sees no need to fund separate tests for the B–1.

The committee recommends an authorization of $30 million for fiscal year 1980. This will allow continued flight testing of the third and fourth prototype through fiscal year 1980.

Bomber Defensive Systems

The Air Force requested $18 million to define and develop a defensive avionics system for the B–52. Development would be completed in 1984 with the option to start production and modification at that time. Development costs are estimated to be about $225 million with procurement and modification costs exceeding $2 billion. The committee questions the wisdom of starting such an expensive program that most probably will have limited payoff by the time it is completed.

The committee recommends deletion of the $18 million.

Distant Early Warning (DEW) Radar Stations

The Air Force requested $5 million for awarding competitive design contracts for an enhanced DEW line radar system. Total cost of the program is estimated to be about $650 million. Testimony indicated the primary function of the enhanced DEW line would be to provide tactical warning of a strategic attack in order to launch the Airborne Warning and Control (AWACS) aircraft. In light of the several other strategic warning systems, the need for a system to provide tactical warning for the launching of the AWACS seems highly questionable.

The committee recommends deletion of the $5 million.

KC–135 Reengining Program

The Air Force requests $6 million for the design, engineering, and testing required to incorporate newer technology engines in the KC–135 airplane. The Air Force plans to select a new engine for the KC–135 in May 1979. Under the proposed program one aircraft will be equipped with the new engines and put through a ground and flight test program that would be completed in 1982. Total cost of the prototype modification and testing program will be in excess of $50 million. A decision on whether to reengine the KC–135 force would be made in 1983.

The committee has two major concerns regarding this program. First, the committee is not convinced the program is worth the $6–10 billion total program cost estimated by the Air Force. However, the committee is willing to await final judgment on that issue until more definitive data is available.

However, the committee is not convinced that the technical risk is so great as to justify a lengthy prototype program. This concern was first expressed by the committee in the report accompanying the fiscal year 1978 Department of Defense authorization bill when the committee deleted $6 million requested for a reengined prototype KC–135.

In order to get the data necessary to judge whether the program should proceed, the committee chose not to delete the fiscal year 1980 funds. Instead, the committee recommends deleting the $6 million

R.D.T. & E. requested to start the prototype and adding $15 million in procurement funds to do the necessary engineering and project planning to be able to make an informed judgment during the fiscal year 1981 budget review process.

Strategic Surveillance, Warning, Command and Control

The committee is very concerned with the adequacy and survivability of our strategic surveillance, warning, command and control assets. The committee found the task of evaluating these programs very difficult not only because of the technical complexity but also because of the proliferation of what appears to be competing and redundant programs among the Services and Defense agencies.

In the communications area, it appears that the systems fall into two categories: (1) those used for the day to day force management and logistics functions; and (2) those that would be used in a trans-attack and post-attack period for the transmittal and execution of any strike orders. While there is some overlap between these two categories of systems, there are many which are clearly distinct and separate.

It appears that in the past the bulk of funds were devoted to systems for the day to day management of the forces with a small subset designed to survive and function in the post-attack period.

It would appear to be more appropriate to reverse that process and determine what warning, command centers, and communications systems are needed or possible to survive and function after an attack. Then an assessment should be made of how much of the day to day workload can be carried by the wartime system. Any non-survivable systems for day to day management should be viewed as marginal additions to the basic wartime system.

The committee requests the Secretary of Defense to review the strategic command and control area along the lines discussed in the previous paragraph. To the extent possible, the review should describe the elements of a survivable command and control system and a multi-year plan for achieving such a system. In addition, it should describe those elements added for the day to day management of the force as well as what portion of the day to day traffic can be carried by the survivable system.

Such review of the function of each element of the command, control, and communications improvements should be judged based not only upon survivability but also the extent to which that improvement will assist our decisionmaking process with regard to the possible execution of strategic forces. The committee requests this review be submitted by January 15, 1980.

Since the committee anticipates that some reordering of program priorities might result from such a review, it recommends slowing some of the programs requested in the fiscal year 1980 budget. These include:

Program	Request	Recom-mendation	Change
Air Force:			
Advanced communications	12.0	6.0	−6.0
Air Force satellite communications	70.6	60.6	−10.0
SAC communications	18.0	12.0	−6.0
Defense Communication Agency: WWMCCS system engineering	34.2	24.2	−10.0

Cruise Missile Program

Cruise missiles are being developed and produced for ground, sea and air applications. The air launched cruise missile (ALCM) is to achieve an initial operational capability on B–52 aircraft in December 1982. The ground launched cruise missile (GLCM) is to achieve an initial operational capability in 1983. No date has yet been established for initial operational capability of the sea launched cruise missile (SLCM). Clearly, the cruise missile will play a major role in our future strategic and theater nuclear forces.

In light of the critical and pervasive role the cruise missile will play it is essential that they be fully tested and be reliable and effective weapons. By the end of fiscal year 1979, it is anticipated that the following number of tests will have been completed for each major launching mode: ALCM—16; GLCM—0; and SLCM—51. The 16 ALCM flights will consist of eight for each competitor. In addition, six short-range ALCM tests were completed in 1976 with the now discarded ALCM–A.

According to the Joint Cruise Missile Project Office, the following additional flight tests will be completed for each missile before termination of all of the development programs in 1982: ALCM—11; GLCM—11; SLCM—65.

In summary, under present planning the ALCM that is chosen for production will have completed 19 flight tests by the time it becomes operational. The GLCM will have completed 11, and the SLCM will have completed 116 test flights.

The disparity in the number of tests is of some concern to the committee primarily because of the small number of tests on the missiles that have established operational dates. The disparity may be explained in part by the fact that initially the SLCM was viewed as the core program with the other programs using many of the components developed in the SLCM program. Under that concept, many of the tests to evaluate the engine and guidance system were flown by the SLCM. However, the shifting in the timing and order of deployment places new emphasis on the ALCM and GLCM programs.

The committee has two concerns. First, the small number of tests programmed for the ALCM and GLCM would appear to be inadequate to give high confidence in the reliability of these missiles at the time they are to achieve initial operational capability. Even though many components are common to all three programs, many are not, and the launch environment and launch equipment are all different.

The second concern is that simply adding more tests for the ALCM and GLCM may be unnecessarily expensive and cause a slip in the deployment schedule. An alternative approach would be to shift some of the tests scheduled for the SLCM to the ALCM and GLCM programs. This would be particularly appropriate for those tests remaining in the SLCM program to test and verify common components.

In light of the importance of the cruise missile programs, the committee requests the Secretary of Defense to make a review of the programs and report his findings to the committee by September 28, 1979 as to the adequacy of the ALCM and GLCM test programs and the potential for shifting tests from the SLCM program to the ALCM and GLCM programs.

The report should also include data on all SLCM test launches to include the performance of each test launch in the following functions:

1. Initiation of the firing system sequence in the submarine or the launcher.
2. Ignition of the booster.
3. Drop of the booster and transition to turbofan engine powered flight.
4. Accomplishment of A TERCOM leg under control of the Cruise Missile Guidance Set.
5. Successful terminal update.
6. Scoring at target.

Extremely Low Frequency (ELF) Communications

The fiscal year 1979 Department of Defense authorization bill prohibited the use of funds authorized for the ELF system unless the President certified to the Congress that a site had been selected for the deployment of the ELF system and that the President had approved such site for deployment of the ELF system. To date, such certification has not been received and none of the $20 million authorized for fiscal year 1979 has been obligated. The committee continues to be concerned with the problem of communicating with our submarine force, and believes the Administration should reach a decision on this matter.

In light of the inaction on the part of the Administration, the committee recommends that $13.25 million of the $20 million authorized for fiscal year 1979 be removed from the ELF program element and be used as a financing adjustment to reduce the fiscal year 1980 Navy research, development, test, and evaluation budget authority.

The Department of Defense requested $13.7 million in fiscal year 1980 to continue advanced development of the ELF system. The committee remains strong in its support of efforts to develop better ways to communicate with our patrolling submarines. However, in light of the uncertainty of the commitment of the Administration to this program, it does not appear prudent to authorize for both fiscal year 1979 and fiscal year 1980 more than the total amount requested for fiscal year 1980. Therefore, the committee recommends $6.75 million be authorized to resume advanced development of the ELF system if a site is selected and the President approves such a site for deployment of the ELF system. If the President approves such a site for deployment, the committee will entertain a reprogramming request for additional advanced development funds. The committee anticipates that none of the funds authorized or reprogrammed for fiscal year 1980 will be used for full scale development of the ELF system.

With the growing vulnerability of our land based ICBM force and the improvements in Soviet air defense, it is essential that we take all necessary steps to ensure the safety and survivability of our SSBN force. Testimony indicates that the SSBN force is relatively invulnerable today and that improving our capability to communicate with patrolling submarines is an insurance policy to keep ahead of any potential threat. The committee feels retaining the invulnerability of the SSBN force is so important that all opportunities for increasing or retaining their safety should be considered. The committee urges the Administration to end the delay in this area and to proceed to improve our capability to communicate with our patrolling submarines whether it be by deploying the ELF system or accelerating development of an alternative system.

M–X

The committee is very concerned over the growing vulnerability of the land-based ICBM force and wants prompt and positive steps taken to solve the problem. The committee believes it imperative for the Administration to decide on and present to Congress as soon as possible a clear plan of action to address the problem of ICBM vulnerability. The Department of Defense requested, and the committee recommends an authorization of $670 million for full scale development of the M–X missile and basing system.

The committee also approved language restricting the use of funds in the fiscal year 1980 budget for the M–X missile program. It requires the President and the Secretary of Defense to report no later than October 1, 1979, on the final characteristics of the missile system. No funds may be spent for the program for 60 days after receipt of such report unless each House passes a resolution of approval within that period. The provision also contains a mechanism for either House by resolution to disapprove the M–X program as reported within the 60-day period, in which event no funds may be spent for it in fiscal year 1980.

TACTICAL PROGRAMS

Army

Tank Systems

The Army requested $31.6 million to continue development of the XM–1 tank. As stated in the detailed description of committee action on procurement of weapons and tracked combat vehicles for the Army, $17.6 million was added to increase preproduction testing of the XM–1. Concern for the poor performance of the turbine engine to date also prompted the committee to transfer $14.2 million from XM–1 procurement to R.D.T. & E. to maintain development of a back-up diesel engine. The net effect of these actions is authorization of $63.4 million for R. & D. for this program in fiscal year 1980.

Tank Gun Cooperative Development

The request to continue development of a 120-millimeter gun for the XM–1 tank was $51.9 million. The committee has been advised by the Army, however, that this amount exceeds requirements for funds in 1980. Accordingly, the Army's request has been reduced by $4.4 million. The committee maintains full support for this program with its potential for increased standardization among NATO ground forces.

Mechanized Infantry Vehicle

No funds were requested by the Army for this new development effort. However, the committee remains concerned about the design shortcomings of the Infantry and Cavalry Fighting Vehicles, and an addition of $3 million has been made to develop follow-on vehicles. The committee expects the Army to use these funds to proceed positively with a new program in the directions described in the section on procurement of weapons and tracked combat vehicles.

Aerial Scout

The Army has not made a decision on the direction of this program for the fiscal year 1980 budget. The Army is considering several options including modification of an existing helicopter, a new development, or the advanced attack helicopter for the scout role. The reduction of $5 million is recommended to preclude commitment to a new program without congressional review.

Standoff Target Acquisition System (SOTAS)

This program has increased over last year's presentation by over $1 billion primarily because of planning for a larger force and planned procurement of new UH–60 helicopters instead of modification of helicopters already in the inventory. The Army is still evaluating its options in this program. The funding reduction of $13.5 million is consistent with the work effort associated with design modifications of the UH–60 helicopter. This effort is deferred so that the Army can reconsider this significant cost increase in this program.

Navy

Development of Ships and Propulsion

The committee recommends the following changes in the ship and propulsion development programs proposed by the Navy.

Surface Effect Ships

For the second straight year, the Navy has failed to request development funds for the surface effect ship. The absence of a fiscal year 1980 request for funding despite the addition of funds for fiscal year 1979 by Congress can only be interpreted as a lack of support by the executive branch of the surface effect ship program. The committee, therefore, recommends recoupment of unused fiscal year 1979 funds in the amount of $44 million as an offset to fiscal year 1980 funding requirements.

SSNX

Committee Report 95–826 on the fiscal year 1979 Defense authorization request speculated that the high cost of the SSN–688 class nuclear attack submarine, coupled with probable fiscal constraints, will cause a decline in the submarine force level as older attack submarines are retired at the end of their service lives. A report by the Secretary of the Navy on all options and alternatives for maintaining an adequate attack submarine force was requested to be submitted no later than February 1, 1979. The committee regrets that the official report was not available for review prior to action on the fiscal year 1980 request and reiterates the report requirement.

The Navy has requested $10 million to initiate a program for a new and less expensive nuclear attack submarine. The absence of the requested report, however, prevents evaluation by the committee of the various new submarine options. The committee will support a less expensive submarine which meets Navy requirements, but must recommend deferral without prejudice the request for fiscal year 1980 authorization of the SSNX project.

The committee will, upon receipt of the requested report and proper justification, consider a request to reform and reorient existing submarine and submarine related development programs to initiate the SSNX development program.

Advance Design Submarine Nuclear Propulsion Plant

This program would support the development of a nuclear propulsion plant for possible future submarine use. Navy has no current or projected requirement for the end product of this development effort. Authorization of the additional $7.8 million development funding is not recommended.

Ship Development (Advanced)

The committee recommends a reduction of $1.8 million in the planned level of effort in analytical techniques, surface ship continuing concept formation and extended planning ships.

Ship Development (Engineering)

The recommended level for ship development (engineering) reflects the following major changes to the request.

	In millions of dollars
ARS salvage ship	−1.4
CV 67 (repeat) carrier	+2.3
CVV medium carrier	−6.9
SSN nuclear submarine	−2.3

Light Carrier Design

The basis for the committee recommendation to add $25 million for the design of a new light carrier is described in the section on naval ship construction.

Antisubmarine Warfare (ASW)

Approximately $760 million of the Navy research and development request is for programs related to Antisubmarine Warfare. Because of the very large Soviet submarine force, the committee has consistently supported a strong ASW program.

The committee recommends the following changes in the proposed programs.

Submarine Antisubmarine Warfare Standoff Weapon

For fiscal year 1980, $8.049 million is requested to commence advance development of submarine launched antisubmarine weapon. The committee recommends deferral of the request.

The committee report on fiscal year 1979 Defense authorization bill commented on the problem of attacking and killing submarines at ranges equal to detection capabilities and directed submission of analyses of costs and benefits of alternative approaches to attack and kill submarines at increased distances from the detecting ship. In the absence of such analyses, the start of advance development of a major system is not justified.

Advanced Antisubmarine Warfare Target

This program would develop a new antisubmarine warfare target simulating the postulated late 1980's submarine threat. The new target is stated to be necessary to test the advanced lightweight torpedo and

MK-48 advanced capability torpedo both of which are currently under development. However, the proposed new target will not be available until several years after planned production decisions on the new and improved torpedoes.

The committee recommends a reduction of the fiscal year request of $11.104 million. The $5 million recommended should be adequate for completion of preliminary studies and critical experiments leading to a review and decision by the Defense Acquisition Review Committee in late fiscal year 1980. The added substantive information should also be available for committee review in connection with the fiscal year 1981 authorization request. The additional data are believed necessary to support a firm decision on the future need for the proposed advanced target.

Submarine Tactical Warfare System (Advanced)

The committee recommends deletion of the $4.17 million requested for development of a submarine air defense weapon. The committee is convinced that the threat does not support continuation of this effort. The committee is also concerned that this proposed program is not consistent with other Navy R. & D. projects aimed at increasing the submarine's covert capabilities.

Carrier (CV) Inner Zone Control

The committee does not support the request for $1.059 million for effort related to defining requirements for a totally new system for close-in-protection of an aircraft carrier from penetrating enemy submarine forces because of other systems either existing or in development which appear to meet this requirement.

Shipboard Air Defense

Approximately $320 million of the Navy research and development request is for programs relative to shipboard weapons for fleet air defense. The Research and Development Subcommittee held a separate hearing on these programs in order to view this mission area as an entity rather than as a collection of separate programs. The Committee recommends a total reduction of $43.4 million spread across the following programs.

Radar Surveillance Equipment (Advanced)

The fiscal year 1980 request for the Shipboard Surveillance Radar System project is $11.8 million. This effort is directed toward definition and development of a long-range air surveillance radar system for support of anti-air warfare weapons for future surface combatants. The request includes $8.8 million to initiate the first stage of development (concept validation) of this radar system. The coordination of this radar development with the development of the other weapon systems is to be done by the Combat System Architecture Office which is still being established. The Committee, therefore, views initiation of concept validation of the radar system as premature and recommends deferral of the $8.8 million intended for this task.

Combat System Architecture (CSA)

Last year the Congress directed that $7.7 million be used to initiate the CSA Program. Congressional intent of this program was for the

Navy to devise and implement the management policy and structure necessary (1) to insure that a surface combatant is optimally weaponized for its multi-mission role, and (2) to provide close coordination of development programs for the weapon control systems, surveillance systems, and target detection systems on a surface combatant. The committee continues to support these objectives. The committee is convinced, however, that a stronger CSA management structure will be required than is now planned in that the CSA office must operate across program lines and across mission lines, including anti-air warfare, anti-submarine warfare and surface warfare. The committee recommends that the CSA office should be located in the OPNAV organization as opposed to its present location in the NAVSEA organization. The committee also feels strongly that anti-ship missile defense systems developments must be closely coordinated by CSA. Authorization of $8.8 million of the $10 million requested is recommended, a reduction of $1.2 million. This reduction corresponds to fiscal year 1979 funds which will not be required and can be applied to the fiscal year 1980 program.

Combat System Integration (CSI)

The committee recommends deletion of the entire $3.4 million request to initiate a new over the horizon (OTH) targeting effort under the Combat Systems Integration line. Any such effort should be incorporated within the OTH targeting program. Funding for the Anti-Ship Missile Defense combat system integration task is reduced by $2.8 million and for the combat system engineering task by $1.9 million, inasmuch as these efforts duplicate similar tasks funded under separate combat system program lines.

Area Air Defense

The area air defense program includes $10.3 million for a stand-off jammer suppression (SOJS) system project. In fiscal year 1978, the Congress denied a Navy request for $10.5 million for an advanced, extended-range version of the standard missile (SM–2 ERA) in that the requirement was not sufficiently justified. In fiscal year 1979, the Congress denied a Navy request for $8.1 million for a new long-range dual mission missile (LRDMM), out of concern that the program would lead to a new missile development and that a requirement still had not been adequately justified. The fiscal year 1980 request for SOJS is again viewed by the committee as likely to lead to a new missile development. The committee strongly feels that any such anti-stand-off jammer missile initiative must be a joint service or a tri-service effort and that potential for existing systems or modification to existing systems to meet this requirement must be thoroughly examined. The committee recommends deletion of the entire $10.3 million request for SOJS. The battle group anti-air warfare coordination project request of $6.7 million is reduced by $1.2 million intended to support SOJS. The Aegis project request of $8.3 million is reduced by $2.0 million in that the $3.1 million requested for continuing system engineering/integration was not adequately justified.

Combat System Engineering Development Site (CSED)

The combat system engineering development site is a land based development facility for the Aegis air defense system. The fiscal year 1980 CSED request for $44.8 million reflects an increase of

$16.1 million above that projected for fiscal year 1980 in last years' budget submission. The Navy estimation of the additional tasking required for fiscal year 1980 only supports an increase of $13.1 million, a reduction of $3 million. The committee, therefore, recommends authorization of $41.8 million.

NATO Sea Sparrow

The fiscal year 1980 request of $5.1 million does not account for the $0.9 million contribution of the European participants for their share of the fiscal year 1979 program. A reduction of $0.9 million is recommended by the committee, in that the fiscal year 1980 scope of work will not be impacted.

Vertical Launch System

The fiscal year 1980 request for the vertical launch system is $22 million. The fiscal year 1980 request for full-scale development of the vertical launch system has increased $3.2 million from $8.2 million to $11.4 million. The program has been substantially restructured since last year as a result of rescoping of the tasks required. The development schedule has now slipped more than a year. Installation on the Aegis ship originally targeted for cannot now be achieved. The committee fully supports this effort and its requirement to complement the Aegis combat system. However, the committee feels that more active in-house technical direction must be provided to maintain this program on schedule. Authorization of the full request is recommended with the anticipation that this technical direction will be forthcoming.

5-Inch Rolling Airframe Missile (RAM)

The fiscal year 1980 request of $19.1 million includes $1 million for flight testing of an Infra-red guided projectile seeker in the RAM airframe. The Navy has no plans for an IR-only weapon which justify this flight testing. The committee recommends the reduction of $1 million corresponding to the funding intended for this task.

Radar Surveillance Equipment (Engineering)

Authorization of $8 million of the $15 million request for radar surveillance equipment (engineering) program is recommeded, a reduction of $7 million. Authorization requested for the Terrier radar improvement task is $6 million above that identified as required to support the Terrier new threat upgrade program. In addition, no requirement for $1 million of the total request was presented.

Tactical Air Forces

The Navy research and development request included about $845 million in 55 programs for tactical air forces. The committee recommends a total reduction of $21.2 million in the five programs described below and the addition of $180 million for the Marine Corps AV–8B.

A–6 Squadrons

A reduction of $1.2 million from the Navy AWSACS (all weather standoff acquisition system) is recommended since the Navy and Air Force have not yet agreed to coordinate similar efforts.

V/STOL Aircraft Development

The Navy is planning to complete the sea based air study this year as well as other evaluations of V/STOL related activities. An authorization of only $0.5 million in lieu of $2.5 million requested is recommended to complete the report on this study, a reduction of $2 million.

AV–8B

The fiscal year 1980 budget request contained no funding for the engineering development for the AV–8B aircraft for the Marine Corps. The Defense Department and the Navy testified that the program was not funded because of higher priority programs within the budget funding constraints. The Marine Corps vigorously supported the requirement for the AV–8B aircraft. The committee believes that this V/STOL type aircraft program should be continued and strongly supports the addition of $180.0 million to the fiscal year 1980 buget for the Marine Corps AV–8B aircraft development programs.

AV–8Bt

The basis for the committee action in adding $5 million for the AV–8Bt is described in the section on shipbuilding.

Air-to-Ground Weapons

The funding requested is to provide development of the Navy version of the IR Maverick. The committee recommends that $6 million of the $8.5 million requested be transferred to the Air Force Maverick program to manage development of the Navy-peculiar modifications to Maverick.

Medium Range Air-to-Ground Standoff Missile

The fiscal year 1980 request for this program is $15.8 million. However, the Department of Defense has deferred obligating $2.2 million of fiscal year 1979 funds, making these funds available for fiscal year 1980. In addition, since the program has been slowed, the fiscal year 1980 effort will not be as extensive as originally planned allowing a further reduction of $4.0 million. The Committee recommends a total reduction of $6.2 million from the fiscal year 1980 request.

Advanced Medium Range Air-to-Air Missile (AMRAAM)

The AMRAAM program is a joint Air Force/Navy program intended to develop a new medium-range missile to replace the current Sparrow missile. The Sparrow missile is used by both the Air Force and the Navy as a medium-range air-to-air missile and by the Navy as a shipboard point-defense surface-to-air missile in its Basic and Improved Point Defense Systems. The committee has continually expressed concern that the AMRAAM development is not adequately addressing the potential of the new missile to replace both the air-to-air role and the surface-to-air role of the current Sparrow missile. The committee once again expresses its strong belief that the development of two new missiles to replace the one Sparrow missile is not required or affordable. Any future requirement for a follow-on shipboard surface-to-air missile to replace the Sparrow missile should be addressed through the AMRAAM program.

Tactical Information System

The Navy and the Air Force are still in disagreement over technical aspects of this joint program. The committee recommends $14.5 million in funding, a reduction of $3.3 million to continue with a single program without the Navy back-up system until agreement is reached in both services.

Other Navy Tactical Programs

Airborne Tactical Signal Exploitation

This program is to identify, assess, and procure a cost-effective and operationally suitable signal intercept system to extend signal intercept horizon for Navy at sea. One million dollars should suffice to conduct necessary analyses to further define concept and requirement to support future requests for funding.

Penguin

This program proposes to spend $18.2 million to evaluate the Norwegian Penguin missile system for possible use on U.S. Navy special warfare craft medium, a 65-foot patrol boat. (Procurement costs alone would be about $1 million per craft.)

The operational benefits to be gained do not justify the proposed expenditure of funds. The committee, therefore, recommends denial of the fiscal year 1980 request for $9.284 million.

Marine Corps Ground Combat/Supporting Arms Systems

The Marine Corps requested $1.6 million for this program. An element of this effort, the mobile protected weapon system, will allow continued participation with the Army and the Defense Advanced Research Projects Agency (DARPA) in a joint investigation of new approaches in technology to armored warfare. Recognizing the value of lightweight, high-performance equipment to the Marine Corps mission, the committee added $5 million to the Marine Corps share of this joint venture. This authorization is specifically intended to accelerate exploration of high-technology vehicle designs and their potential for improving the combat power of ground forces.

Air Force

Defense Suppression Weapons Advanced Technology

The committee recommends deletion of this $3 million request until the coordinated requirements of all services' defense suppression weapons are established.

Advanced Attack Weapons

The committee recommends deletion of $1 million in funds requested to initiate concept definition of a new advanced conventional standoff weapon since this requirement for a new cruise missile weapon has not been adequately established.

Pave Mover

The committee's recommended reduction of $2.7 million reflects their oncern that this new standoff acquisition system has not been satisactorily coordinated with other ongoing efforts in this area.

lose Air Support Weapons System

The addition of $6 million is consistent with the recommendation n the Navy air-to-ground weapon program to transfer $6 million f the funds intended for the Navy to develop its version of the IR Iaverick. The additional funds are for the development of the Navy's eculiar modifications to Maverick.

Common NATO Munitions

The fiscal year 1980 request of $16.4 million includes $12.5 million for Atlis II. The committee recommends approval of $12.5 million for Atlis on the basis that the Air Force accept a general reduction of $12.5 million from the overall Air Force research and development account.

In addition the committee recommends a $2 million reduction for the Streba program and $1.9 million of prior years unused funds.

Precision Location Strike System

This program was reduced significantly from the Air Force planned requirement because of funding constraints. The planned weapon to go with this system, the GBU–15, was not requested in the fiscal year 1980 budget request. The priority of this system is questionable in view of the capabilities to be provided. The committee recommends deletion of the entire $24.9 million requested.

DEFENSEWIDE MISSION SUPPORT

Army.—Minor reductions are recommended in testing activities and in headquarters funding. The recommended levels still allow for real growth but at slower rates than proposed by the Department of Defense.

Navy.—Funding for test and evaluation support is reduced by $7 million holding this account to the same real level as fiscal year 1979.

Surface warfare training devices is a new program in the research and development account. An authorization of $10 million is recommended instead of the $23.7 million requested. If the Navy determines that the program is proceeding faster than the committee anticipates then the committee would be willing to consider a reprogramming action.

Funds for research and development operational planning support are not authorized for the same reasons expressed by the committee last year. These tasks should be done by the uniformed Navy not contractors.

Air Force.—Two minor reductions were made in Air Force funding for R. & D. headquarters for the Pram program because the rate of growth in both programs was not adequately justified.

TITLE III—ACTIVE FORCES

Background on Active Forces Authorization

Beginning with fiscal year 1972, Congress has been required by law to authorize annually the active duty strength of each component of the Armed Forces. The provision was included in the Senate version of the Department of Defense authorization bill for fiscal year 1971, and was designed to enhance congressional oversight over the entire Defense Department program.

The Subcommittee on Manpower and Personnel held hearings in open and closed session on February 21, 22, March 7, 20, 21, 27, and April 4, 6, 9, and 10, 1979 and heard testimony from Defense Department manpower experts and outside witnesses on the active duty military personnel strengths requested by the Department of Defense for fiscal year 1980. Based on this testimony, the information provided in the Military Manpower Requirements Report and the Military Manpower Training Report for fiscal year 1980 submitted by the Department of Defense and other information provided to the committee, the staff has conducted a thorough review and analysis of military manpower requirements.

Committee Recommendations

Decrease of 3,000 from requested active duty strength

For the reasons set out below, the committee recommends approval of an active duty end strength of 2,047,000 for September 30, 1980, which represents a decrease of 3,000 from the administration's request of 2,050,000. The committee recommendations on the active duty strength for each military service are shown below:

ACTIVE DUTY MANPOWER, FISCAL YEAR 1980

[In thousands]

	Actual strength Dec. 31, 1978	DOD request Sept. 30, 1980	Committee recommendation Sept. 30, 1990	Change from request	Percent change
Army	756.6	774.0	776.7	+2.7	+0.3
Navy	529.2	528.0	524.0	−4.0	−.7
Marine Corps	187.9	189.0	189.0		
Air Force	567.0	559.0	557.3	−1.7	−.3
Total	2,040.7	2,050.0	2,047.0	−3.0	−.1

Legislative Changes Affecting Active Duty Personnel

In addition to recommending active duty strengths, the committee recommends four legislative changes to the authorization bill relating to military service, military discipline, and allowances. They are:

An amendment to discontinue payment for future travel of dependents, household goods, and automobiles for junior enlisted personnel, while maintaining military pay and other allowances.

An amendment to provide for the counting of Reserve general and flag officers of all the Services, serving on active duty, against only the active duty strength authorizations.

An amendment to require each of the Service Secretaries to submit an Officer Grade Distribution Report and promotion plan to the Congress each year as part of the annual Manpower Requirements Report.

A general provision to improve military discipline by clarifying in personam courts-martial jurisdiction in cases where defects in the enlistment are alleged and the authority of the President to promulgate the Manual of Courts-Martial.

Committee Considerations

Military Manpower Requirements

In making its review of military manpower requirements, the committee examined the missions for the services, the force structure and manpower to carry out those missions, overseas deployments, auxiliary and support manpower, and related personnel policies. The committee reviewed each of the major functional categories of military manpower which are shown in the following table:

DEPARTMENT OF DEFENSE MILITARY MANPOWER REQUEST, FISCAL YEAR 1980

[End strength in thousands; fiscal years]

	1964 actual	1977 actual	1978 actual	1979 plan	1980 request
Strategic	222	102	102	99	95
Tactical/mobility	1,060	941	949	952	958
Land forces	605	553	554	558	563
Tactical air forces	145	172	177	175	177
Naval forces	255	178	180	182	181
Mobility forces	55	38	38	37	37
Auxiliary activities	187	106	109	106	105
Intelligence	76	36	35	35	35
Communications	43	32	34	32	32
Research and development	49	27	30	29	28
Geophysical activities	18	11	10	10	10
Support activities	1,218	925	902	893	892
Base operating support	433	252	245	243	242
Medical support	84	85	86	84	84
Personnel support	18	29	29	28	28
Training	519	457	435	432	429
Logistics	33	19	20	20	21
Other centralized support	48	41	46	45	47
Management headquarters	83	39	38	38	38
Federal agency support	2	3	3	3	3
Total DOD [1]	2,687	2,074	2,061	2,050	2,050
Army	973	782	771	774	774
Navy	667	530	530	524	528
Marine Corps	190	192	191	190	189
Air Force	857	571	569	563	559

[1] Total may not add due to rounding.

From fiscal year 1979 through fiscal year 1980 the Defense Department plans to increase combat manpower spaces by 2,000 and reduce auxiliary and support functions by 2,000. The fiscal year 1980 active military strength request is the same level as that planned for fiscal year 1979. The increase in combat manpower is primarily in increased manning for Army units in Europe and the United States, and in continuing the upgrading of the combat capability of the Marine Corps' Fleet Marine Forces. The reduction in support personnel is in training, base operating support and individuals moving to new stations.

As the above table shows, the Department has been increasing combat personnel over the past several years. The committee is pleased to note the reductions in support personnel but also notes that in the past actual utilization of manpower has sometimes differed significantly from the functions justified in the budget request. Manpower strengths should be requested for the functions for which needed and used in the functions for which approved.

U.S. Forces Overseas

The committee recommendation supports a level of 493,000 overseas troops for fiscal year 1980 and emphasizes increased readiness and combat capability in support of U.S. commitments abroad.

Since the reduction of U.S. forces overseas due to the withdrawal from Vietnam, U.S. forces have been drawn down to under 500,000 personnel. From fiscal year 1973 through 1980 these levels will have decreased by 91,000 (16 percent), largely in Asia and the Pacific. U.S. active military forces in Europe now number about 324,000.

The committee continues to support the principle of a military balance in the world and the overseas force levels required to achieve that balance. Its continuation depends on the ability of the United States and her allies to work together to carry out their commitments. In light of the continuing buildup of Soviet Union conventional forces over the last decade, the importance of these commitments is underscored.

KOREA

The recommended level of overseas troops includes no further withdrawal of combat troops from Korea. The committee continues to be concerned about the possible risks to the current military balance of any further withdrawals. The President has deferred a judgment on further troop withdrawals pending a reassessment of intelligence data indicating an increased threat. The fiscal year 1979 authorization bill includes a requirement for the Secretary of Defense to provide an analysis to the committee before any future withdrawal of ground combat troops from Korea.

OVERSEAS AND FOREIGN MILITARY SALES ADJUSTMENTS

The planned overseas troop deployments requested in the President's budget included troops in Taiwan for the Army and in Iran for all Services that will now not be needed. The committee recommends overseas adjustments which amount to a decrease of 700 military for the Army, 100 military for the Navy and 400 military for the Air Force.

The cancellation of foreign military sales to Iran has a significant ffect on the number of personnel involved in foreign military sales or each Service. In addition, the Army personnel involved in foreign military sales to Israel and Navy personnel involved in foreign military sales to Saudi Arabia will be higher than originally projected in the President's budget. The committee recommends foreign military sales adjustments which amount to a decrease of 200 military for the Army, 500 military for the Navy, and 1,500 for the Air Force.

Similar civilian overseas and foreign military sales adjustments are discussed under Title V of this report.

The following table shows the trends in U.S. forces overseas.

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES

[In thousands]

	Actual strength						
	June 30, 1964	June 30, 1968	June 30, 1973	June 30, 1976	Sept. 30, 1977	Sept. 30, 1978	Dec. 31, 1978
Total outside the United States	755	1,241	585	460	483	494	481
U.S. territories and possessions [1]	36	41	43	26	23	22	22
Foreign countries	719	1,200	542	434	460	472	459
Total foreign afloat (included in foreign countries figure)	(129)	(117)	(73)	(54)	(66)	(64)	(52)
Selected Areas:							
Southeast Asia	21	622	53	1			
South Vietnam	17	534	(2)				
Thailand	4	48	42	1	(2)	(2)	(2)
Afloat	NA	40	11				
Western Pacific	222	238	146	121	134	129	123
Japan	43	40	19	15	16	15	15
Ryukyus Islands (Okinawa)	46	39	38	30	31	30	29
Philippines	15	28	16	15	15	14	13
South Korea	63	67	42	40	40	42	41
Taiwan	4	9	9	2	1	1	1
Afloat	52	54	22	19	31	26	24
Western Europe and related areas	403	319	319	296	317	329	324
Belgium		2	2	2	2	2	2
France	34	(2)	(2)	(2)	(2)	(2)	(2)
Germany	263	225	229	208	224	234	240
Iceland	3	3	3	3	3	3	3
Italy	11	10	10	12	10	12	11
Greece	3	3	5	3	3	4	3
Greenland	4	1	(2)	(2)	(2)	(2)	(2)
Morocco	2	2	1	1	1	(2)	(2)
Netherlands		2	2	2	2	2	2
Portugal (including Azores)	2	2	1	1	1	1	1
Spain	11	9	9	9	9	9	9
Turkey	11	10	7	4	5	5	5
United Kingdom	26	24	21	20	20	22	22
Afloat	29	23	28	29	32	35	26
Other	2	1	1	2	(2)	(2)	(2)
Other areas	110	62	67	42	32	36	34
Bermuda	3	2	2	1	1	1	1
Canada	11	4	2	1	1	1	1
Cuba	4	4	3	2	2	2	2
Diego Garcia				1	1	1	1
Ethiopia	2	2	(2)	(2)		(2)	(2)
Guam/Mariana Islands	8	15	16	10	8	8	9
Iran			(2)	1	1	1	1
Midway	2	1	1	1	1	(2)	(2)
Panama Canal Zone	11	12	10	9	9	9	9
Puerto Rico	10	9	7	4	4	4	3
Afloat	49	(2)	18	6	4	3	3
Other	11	13	9	8	4	3	3

[1] Excludes afloat with exception of June 30, 1973, figures.

[2] Indicates fewer than 500 personnel.

Figures may not add due to rounding.

Dependents of Military Personnel Overseas

The large number of dependents of military personnel who are now overseas, particularly in Europe, is a serious and growing problem. In the past 10 years, the number of military personnel in Europe has declined by about 33,000, while the number of dependents has increased by about 77,000. That is, the number of dependents per military member in Europe has increased by 47 percent.

Over the past year, there has been substantial confusion on the actual number of military dependents overseas. Last year, the Department of Defense estimated the number of dependents overseas at 336,000. More recently, the Department of Defense has estimated the number actually to be 371,000. Conflicting testimony was presented before the committee this year on the expected number of dependents for the future.

The fiscal year 1979 Department of Defense Appropriations Act included a provision limiting the number of dependents overseas at 350,000. Despite this provision in law, the number has been exceeded and may grow unless positive steps are taken. The committee is concerned because the large number of dependents in Europe adversely affects readiness, brings into question the adequacy of evacuation plans, and creates financial problems for many military families. Military commanders in testimony before the committee have also outlined this problem, but the Department of Defense has not proposed a plan to reduce the number of dependents overseas.

American troops are deployed in Europe to defend our national security and to deter aggression against our NATO allies. Troops deployed in other areas overseas have a similar mission and similar problems where large numbers of dependents are permitted. The committee is concerned both with the impact on readiness and the hardships imposed on military families by current policies. The committee recommends five steps to reduce the number of dependents below the level now contained in the Appropriations Act:

(1) The committee recommends denying the requested increase of 300 civilians for the Army for increased personnel support in Europe—primarily for child care.

(2) The committee recommends a reduction of 200 military and 2,500 civilians involved in overseas dependent community support.

(3) The committee recommends an increase of 500 military in order to allow the Army to test the effects of an 18-month tour for single or unaccompanied soldiers overseas. The Army has conducted a study of such a program but has not yet tested it. Testimony before the committee by many military commanders indicated that such a policy would reduce the number of dependents and would also increase readiness. The committee is also concerned, however, about reports of seri- us deficiencies in unit training overseas because of high turbulence n units and feels that a test of a shorter tour should avoid increasing urbulence in individual units and include a review of current policies ith respect to unit rotation.

(4) The committee adopted an amendment (Sec. 302) to discontinue e payment for travel of dependents, household goods, and automo- les for junior enlisted personnel in the future. The Department of

Defense began paying these allowances last October and personnel currently overseas or with orders would not be affected. The amendment would continue the current policy of paying cost-of-living and station unit housing allowances. The committee feels that this travel entitlement has served as an enticement for increased numbers of dependents overseas without full recognition of the various problems such young families face and the effects on unit readiness. Such personnel would still be entitled to bring their own military gear and personal affects.

(5) The committee requests the Secretary of Defense report by December 31, 1979 on the implementation of these recommendations and other management actions planned to reduce the number of dependents overseas by 10 percent by the end of fiscal year 1980 from current levels and by 30 percent within 5 years.

The Secretary of Defense should consider management actions such as changes in commissaries, exchanges, and housing policies as well as positive incentives to reduce the number of overseas dependents. The Army has estimated the average cost of each dependent overseas as $4,465 per year for a total of $824 million for the Army alone, for Europe alone. The Secretary of Defense should consider management actions through the use of cost effective positive incentives open to all personnel. Incentives to be considered should include, but not be limited to, incentive pays, assignment guarantees, shorter tours, and accompanied tours for long-term enlistments and long-term reenlistments. Such action should be consistent with efforts to attract and retain highly-qualified personnel at all grade levels while also achieving the proposed reductions in overseas dependents.

The committee further requests the Secretary of Defense to include in the report requested by this section full information as to the substance, scope and conclusions of his study of these management actions and positive incentives aimed at retaining qualified personnel while reducing numbers of overseas dependents, including the effect of these actions on readiness, non-combatant evacuation plans, financial effects on individuals and in the total Defense budget, and on recruiting and retention of qualified personnel.

The committee feels that this serious problem must be resolved but does not intend to treat military personnel or their dependents harshly and is not suggesting the number of dependents overseas should be zero. Rather, the committee recognizes and supports the contribution to our national security by military families who endure the many hardships of military life.

Intelligence Analysis

The committee is convinced of the need to improve intelligence analysis capabilities and recommends an increase of 300 active duty military to improve this capability in the intelligence organizations of the military services and the Defense Intelligence Agency. The committee also recommends a related addition of 200 civilians for this same purpose.

A special hearing on the fiscal year 1980 request for intelligence manpower was held, and the committee concludes that recent trends in reduction of manpower for intelligence analysis must be reversed.

While the United States must continue to invest in high technology systems for intelligence collection, it must not neglect the need to train and maintain an adequate number of expert analysts to give meaning to the intelligence data we collect. Recent experience with a reevaluation of North Korean military forces illustrates this point.

The committee's recommended addition would provide additional analysts in the areas of greatest current weakness—basic intelligence on economic, social, political and military conditions throughout the world, and especially in the third world; and scientific and technical analysis. These personnel should be top quality line analysts and are specifically not to be used for intelligence collection or covert activities.

Army Manpower

The committee recommends an active duty end strength of 776,700 for the Army be approved for fiscal year 1980 which includes an increase of 2,700 and certain reallocations of manpower within the total. The actual active strength of the Army was 756,600 on December 31, 1978. The committee suggests reductions as a result of overseas and foreign military sales adjustments (−900), and in training (−1,700), ROTC support (−100), dependent support (−100), the number of officers (−1,000) and as a result of maintaining quality in recruiting (−400), and increases to accommodate the deferred withdrawal from Korea and associated training and support (+6,300), to test a shorter overseas tour (+500) and in intelligence (+100).

MANPOWER PROGRAM

The Army manpower request for fiscal year 1980 reflects an increase in personnel in selected forward deployed units in Europe and combat units in the United States for which sets of equipment are prepositioned in Europe.

The Army request for manpower assumed the withdrawal of about 7,000 Army personnel from Korea. Although no amended budget request was submitted, the President has deferred a judgment on further troop withdrawals pending a reassessment of intelligence data indicating an increased threat. The committee recommends an increase to Army strength for the number of troops scheduled to be withdrawn and associated training and support offset by the planned manning of the 2d Infantry Division in the United States after withdrawal (+6,300).

The planned overseas troop deployments requested in the President's budget included troops in Taiwan for the Army and in Iran for all Services that will now not be needed. These overseas adjustments amount to a decrease of 700 military for the Army.

The cancellation of foreign military sales to Iran has a significant effect on the number of personnel involved in foreign military sales for each Service. In addition, the Army personnel involved in foreign military sales to Israel will be higher than originally projected in the President's budget. The effect of these foreign military sales adjustments to the Army is a decrease of 200 military manpower billets.

In training, the Army plans to increase the length of initial skill training and functional training in additional (not primary) skills. The committee recommends that fiscal year 1979 policies on training be maintained with a savings of 1,700 in Army military manpower. The budget request continues to support One Station Unit Training, and the committee continues to support this more efficient method of training, which also saves training manpower and money. During fiscal year 1979, the Army is continuing to test alternatives to Infantry One Station Unit Training but the budget as submitted provides for the implementation of the full One Station Unit Training concept at the beginning of fiscal year 1980. The committee fully supports the expansion of One Station Unit Training requested in the President's budget, including the full implementation of Infantry One Station Unit Training in fiscal year 1980. The committee adopted an authorized student load of 27,790 to be utilized solely for One Station Unit Training.

As part of a program to reduce the number of military dependents overseas, the committee recommends a decrease of 100 military for dependent support, and an increase of 500 military to test a shorter overseas tour.

While the requested total Army military strength would increase by only 200, the number of officers requested increases by 2,000. The number of officers in combat units would decrease by 100, while the number of officers in central support and management headquarters would increase by 1,100, the number of officer students would increase by 400, and the number of officers in other activities would increase by 600. The committee recommends a denial of half of this increase in officers (−1,000).

The committee recommends an increase of 100 military to improve intelligence analysis capabilities for the Army.

The Army plans to decrease the quality of new recruits in fiscal year 1980. In fiscal year 1978, 70 percent of the non-prior service male Army recruits were high school graduates. The fiscal year 1980 request plans to access only 65 percent high school graduates. Attrition during training and during the first term of service is much higher for non-high school graduates. The committee reduced Army military by 400 spaces, which would be consistent with maintaining quality in recruiting.

The committee also recommends a decrease of 100 military for ROTC support personnel to continue civilianization programs as previously planned.

Navy Manpower

The committee recommends an active duty end strength of 524,000 for the Navy be approved for fiscal year 1980 which includes a decrease of 4,000 and certain reallocations of manpower within this total. The actual active strength of the Navy was 529,200 on December 31, 1978. The committee suggests reductions as a result of overseas and foreign military sales adjustments (−600), in training (−1,200), the number of officers (−100) and support (−2,200) and increases in intelligence (+100).

MANPOWER PROGRAM

The Navy manpower request for fiscal year 1980 reflects a level manpower program for tactical/mobility and strategic forces. Although the Navy's total active fleet will increase from 455 to 462 ships, manpower increases for new ships are offset by deactivation of older ships. The Navy does request an increase in manpower in the Individuals account to accommodate increased accessions.

The Navy continues to face very serious personnel problems. Recruiting shortfalls continue. Testimony indicates that Navy strength may fall short by at least 6,000 personnel and perhaps much more this year. Shortages in critical skills remain. Navy desertion and AWOL rates continue at historical highs. Navy officials testified this year that part of the reason for the early deactivation of 20 Naval Reserve ships is the inability to man those ships with the necessary active duty personnel.

The committee is concerned that we may have now reached the point of being unable to man the fleet under the current policies of the All-Volunteer Force and that these problems will worsen as the number of ships begins to increase in the future. The reduction of 4,000 military personnel in the Navy should take some pressure off recruiting and encourage the Navy to solve at least some of the Navy's personnel problems.

The committee recommends a reduction of 100 military related to adjustments for overseas assignments and 500 foreign military sales personnel for Iran similar to the adjustments discussed for the Army.

The committee recommends a reduction of 1,200 instructor and training support personnel in positions that the Navy states that it does not intend to man when Navy training is at high levels.

The Navy also plans to increase the number of officers by 700—no increase for ships, but an increase of 100 for central support and management headquarters and 600 students. The committee recommends the requested increase for central support and management headquarters be denied (−100).

In several support activities, the Navy plans significant decreases in the Selected Reserve and civilian personnel but plans increases in active military personnel above the actual fiscal year 1978 manning levels. In research and development, base operating support, central logistics and central support the Navy plans to decrease civilians by over 16,000, to decrease Selected Reservists by over 14,000 but to increase active duty military by 2,200. These are the areas of lower priorities for active duty personnel where the Selected Reserve could be better utilized. The committee recommends the requested increase of 2,200 military in these support activities be denied.

The committee recommends an increase of 100 Navy military personnel to improve intelligence analysis capability.

Marine Corps Manpower

The committee recommends approval of the active duty end strength requested for fiscal year 1980 for the Marine Corps of 189,000. The actual strength of the Marine Corps was 187,900 on December 31, 1978.

Air Force Manpower

The committee recommends an active duty end strength of 557,300 for the Air Force be approved for fiscal year 1980 which includes a decrease of 1,700 and certain reallocations of manpower within this total. The actual active strength of the Air Force was 567,000 on December 31, 1978. The committee suggests reductions as a result of overseas and foreign military sales adjustments (−1,900), in training (−800), dependent support (−100), and as a result of maintaining quality in recruiting (−300), and increases in intelligence (+100) and Airborne Command Posts (+1,300).

MANPOWER PROGRAM

The committee recommends a reduction of 1,900 military personnel for adjustments for overseas deployments and foreign military sales personnel for Iran similar to the adjustments discussed for the Army. This large recommended reduction in workload should be accompanied by a corresponding decrease in Air Force logistics headquarters.

The Air Force's plan for progression skill training for fiscal year 1980 is to train people longer and to increase student loads while the number of expected graduates will actually decline. The committee recommends that fiscal year 1979 policies be maintained which would save 800 military spaces.

The Air Force recruiting plan for fiscal year 1980 would decrease the proportion of male high school graduates from 85 percent to 83 percent. The committee recommends the current level of quality not be decreased which would save 300 military spaces.

The committee recommends a decrease of 100 military for dependent support.

The committee recommends an increase of 100 military spaces for improved intelligence analysis capability.

The fiscal year 1980 budget does not include manpower spaces for the operations and maintenance of the three Airborne Command Posts for the Commander in Chief—Europe, the Commander in Chief—Pacific and the Commander in Chief—Atlantic. The Air Force considers this program to be of high priority and the committee recommends restoring this budget deletion of 1,300 military.

The All-Volunteer Force

The committee continues to be concerned over the many problems with the current policies of the All-Volunteer Force. The Military Services are encountering increasing difficulty in recruiting sufficient manpower to meet active duty levels. The Selected Reserve—the units that would augment active military forces in a mobilization—are over 30,000 below authorized strength. Despite additional recruiting incentives, the Selected Reserve manpower continued to decline over the past year. According to testimony, the Individual Ready Reserve, the primary force of trained individuals for replacement and augmentation in emergencies, is 500,000 below mobilization levels for the Army alone.

There are critical shortages of doctors and certain other skilled personnel in both active and reserve components.

Testimony presented to the committee indicates very severe problems in the event of mobilization. According to the Defense Resources Management Study, the Air Force early in any war can meet only 15 percent of its stated theater requirement for general surgeons and 9 percent of its stated orthopedic surgeon requirement. Also, according to that Study, the Navy could meet only 27 percent of its anesthesiology requirement and 50 percent of its general surgery requirement.

Mobilization exercises conducted in the past year show similar problems for Army surgeons and nurses. There would also be significant shortages of enlisted medical manpower, a shortage of hospital beds in theater of up to 35 percent, and a shortage of aeromedical evacuation assets. Although these medical problems are indeed severe, acute shortages of manpower would also exist for armor specialists, infantry specialists, and chemical specialists. The current policies of the Department of Defense are failing to meet manpower requirements needed to enable the Military Services to mobilize in case of emergency.

Recognizing large existing shortages of pretrained manpower, testimony indicated that the Department of Defense intends to seek legislation to recall veterans first to active duty in case of an emergency. Legislation would be necessary since such veterans have completed all active and reserve duty and now have no further military service obligation. That is, the Department is recommending that veterans who have already served and are not now members of the Ready Reserve and who recognize they have no further military obligation would still be called first before any individual who had never served. The committee recommends that this policy be rejected.

Manpower Requirements Report

The statutory report on military manpower requirements for the Department of Defense continues to play an important part in the committee's assessment of the department's request for military, civilian and reserve forces. The report serves the purpose of identifying and justifying all the forms of manpower for the various missions and functions within each planning category. In this way the missions, functions, military units, manpower and funds can be related in a comprehensive manner to the purposes and workloads for which they are authorized. The committee expects the unit annex to be submitted each year along with the statutory Manpower Requirements Report.

Again this year, the committee has experienced great difficulty in obtaining complete information in a timely fashion on the present and future levels of U.S. active duty military forces deployed overseas. The committee considers this information essential to its analysis of the manpower strengths requested by the Department of Defense. In the future, the committee requests the Department of Defense to submit, as part of the annual Manpower Requirements Report submitted to Congress by February 15 each year, information reflecting the total number of Department of Defense and individual Service active duty military personnel by regional area and country as of: (1) the end of the prior fiscal year; (2) the end of the calendar year just ended; (3) the end of the current fiscal year; and (4) the end of the fiscal year for which the request is being made.

The annual Military Manpower Training Report presented for the past two years has not contained consistent data and definitions. The committee requests that the Department of Defense make no changes in the categories used in these reports until such changes have been fully reviewed by the committee staff and the committee has been provided a complete crosswalk from the current to the proposed categories for current and prior years, and for prior year's manpower requests. The committee expects this reporting system to continue measuring manpower utilization and plans in a stable, consistent manner and to avoid unnecessary or confusing accounting changes.

Sec. 303. Committee Amendment To Eliminate Double Counting of Certain General Officers

The committee adopted an amendment (Sec. 303) to provide for the counting of Reserve general or flag officers of all the Services, serving on active duty, against only the active duty strength authorization.

At the present time the Marine Corps is authorized to have 66 general officers serving on active duty. Under current law a Marine Corps reserve general serving on active duty counts against both the authorized number of active and reserve general officers even though the officer would be on active duty with the regular Marine Corps. Since the Marine Corps is authorized only 10 Marine Corps Reserve generals, this so-called "double counting" precludes the Marine Corps from maintaining their fully authorized number of reserve general officers. Although only the Marine Corps actually encounters this problem at the present time, all Services, except the Air Force, could have the problem of "double counting" of general officers.

Sec. 304. Committee Amendment To Change Officer Grade Distribution Reporting Requirement

The committee adopted an amendment (Sec. 304) to change the Officer Grade Distribution Report submission requirement. Current law requires each of the Service Secretaries to submit an officer grade distribution report and promotion plan to Congress by April 30 of each year. The committee amendment would require that this information be included as part of the Manpower Requirements Report rather than as separate reports. The committee believes that inclusion of this information in the Manpower Requirement Report, which by law must be submitted by February 15 of each year, would be more efficient and timely in assisting the committee in its review of the annual request for manpower.

Rejection of Repeal of Restrictions on Flag and General Officers and High Grade Civilians

The fiscal year 1980 authorization request proposed to repeal the provision in the fiscal year 1978 Department of Defense Authorization Act directing a reduction in general and flag officer strength to 1,073 by the end of fiscal year 1980. Instead, the budget proposes to hold the number of General Officers at 1,119, the same as in 1978 and only 22 below the number proposed at the time the reduction was enacted.

Requested enlisted strength declines by 15,000 from 1978. Requested civilian strength declines by 31,000 from 1978 yet not one general officer is to be reduced.

Similarly, the fiscal year 1980 budget proposes a decrease of 9,000 civilians from the fiscal year 1979 planned level. Eighty-six hundred (95 percent) of this decrease would take place in blue collar civilians and the number of high grade civilians would decrease by less than 300. The committee believes that both of these areas require continued management attention from the Department of Defense and recommends that the current planned reductions not be repealed.

TITLE IV—RESERVE FORCES

Background on Reserve Personnel Authorization

Congress is required annually to authorize the personnel strength of the Selected Reserve (reservists organized in units) of each Reserve component of the Armed Forces. This provision allows the Congress to specify the desired force levels for a major portion of the reserve establishment.

This year the Subcommittee on Manpower and Personnel held hearings in open and closed session on February 21, 22, March 7, 20, 21, 27, and April 4, 9, and 10, 1979 and heard testimony from Defense Department manpower experts and outside witnesses on the Selected Reserve strengths requested by the Department of Defense for fiscal year 1980. Based on this testimony, the information provided in the Military Manpower Requirements Report and the Military Manpower Training Report for fiscal year 1980 submitted by the Department of Defense and other information provided to the committee, the staff has conducted a thorough review and analysis of reserve manpower requirements.

Committee Recommendations

Increase of 38,100 in Selected Reserve Manpower Strengths—a 5-Percent Increase

For the reasons discussed below, the committee recommends the requested levels for Selected Reserve manpower in all Selected Reserve components except the Naval Reserve. As noted earlier in the discussion of the All-Volunteer Force, the committee is concerned with the problems currently being experienced in Selected Reserve manpower. The committee emphasizes that from fiscal year 1975 through fiscal year 1978 the Services have not achieved their authorized Selected Reserve strengths, despite the additional Reserve recruiting incentives also authorized. The committee's recommendation is as follows:

SELECTED RESERVE PERSONNEL

[In thousands]

	Authorized Sept. 30, 1979 (average strengths)	Actual Dec. 30, 1978	DOD request Sept. 30, 1980 (average strength)	Committee recommendation (average (strength)
my National Guard	362.2	342.3	355.7	355.7
my Reserve	195.7	184.7	197.4	197.4
val Reserve	87.0	81.7	48.9	87.0
rine Corps Reserve	33.0	32.4	33.6	33.6
National Guard	92.1	91.6	92.5	92.5
Force Reserve	53.0	53.2	57.3	57.3
st Guard Reserve	11.7	11.1	11.7	11.7
Total	834.7	797.0	797.1	835.2

Increase of 1,500 Reservists for Full-time Active Duty

For the past two years, the committee has been concerned over the Services' growing practice of bringing reservists on full-time active duty for recruiting and other functions but not including these full-time active duty personnel in authorized strengths. In response to the committee's concern, the fiscal year 1980 authorization request included a separate section within Title IV which separately identifies the year-end number of Selected Reserve personnel on full-time active duty, for the purpose of organizing, administering, recruiting, instructing or training the Reserve forces. The committee finds this approach acceptable but recommends that all Reserve components be included in this authorization request in the future in a consistent manner. Full-time personnel for the Naval Reserve are now not included in the same way as the other Reserve components. The committee recommendation on full-time active duty reservists is as follows:

FULL-TIME RESERVE MANPOWER

[End strength in thousands]

	DOD request Sept. 30, 1980	Committee recommendations
Army National Guard	6, 244	6, 244
Army Reserve	4, 288	4, 288
Naval Reserve	207	1, 707
Marine Corps Reserve	67	67
Air National Guard	1, 560	1, 560
Air Force Reserve	681	681
Total	13, 047	14, 547

Committee Considerations

Naval Reserve

The requested average strength for the Naval Reserve for fiscal year 1980 is for 48,900 Selected Reservists including 207 Reservists serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing or training the Reserve forces. This is a reduction of more than 40 percent from the fiscal year 1979 authorization level of 87,000. The President's budget plan would transfer 35,000 Naval Reservists to the Individual Ready Reserve and eliminate about 3,100 from the structure. Testimony indicated that many of the Reservists so transferred might simply leave the Naval Reserve.

The committee is of the opinion that drastic reductions in the funding for the Naval Selected Reserve would, at a minimum, impact adversely on the ability of the Naval Reserve to fulfill its purpose. The committee continues to believe that the authorized strength for the Selected Naval Reserve should be stabilized and that the Secretary of Defense and the Secretary of the Navy should make greater use of Naval reserve components in support of active duty missions. Toward that end, the committee recommends an authorization of 87,000 Selected Reservists including 1,707 Reservists serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve forces. The committee took into consideration the difficulty that the Navy has experienced in providing necessary manpower for active and reserve missions and believes that the additional Reservists voluntarily serving on full-time active duty can contribute to the total force posture of the Navy.

The President's budget plan includes the deactivation of 20 Naval Reserve destroyers. While many of these ships are very old and would require extensive overhaul to be kept in service, the committee recommends that the Navy consider the use of these additional 1,500 Reservists on full-time active duty for additional support for the Naval Reserve and to provide manpower for the full-time manning that could be used for some of the better Naval Reserve Forces destroyers to preclude premature retirement or other high priority units.

The committee continues to believe that critical types of units with important capabilities such as deployment related units, aviation, ship and aircraft maintenance, intelligence and other highly professional skills should be retained in the force structure consistent with modernization programs and that 17 Reserve Naval Mobile Construction Battalions should be retained.

Sec. 402. Committee Amendment To Eliminate Administrative Duty Pay for Reserve and National Guard Commanders

The committee bill includes a provision (Sec. 402) proposed by the Department of Defense which would repeal the authority for additional pay for Reserve and National Guard commanders for the performance of administrative duty.

In 1916, the payment of administrative duty for administrative chores performed outside of the regular drill time began. The amounts vary from $10 to $20 per month, depending on the size of the unit commanded. For units with under 50 personnel, commanders receive $10 per month, for units with 50–99 personnel, they receive $15, and for units with over 100 personnel, they receive $20.

Since 1916 conditions have changed so that reserve units have more paid drills and therefore commanders can spend more paid drill time for administrative duty. The full-time reserve technician program has been established and increased, thus removing much administrative burden from unit commanders. Active duty assistance to the reserve components has been substantially increased. Given these changing conditions the committee saw fit to approve the administration proposal to repeal the authority for administrative duty pay. The committee provision is expected to save about $2 million annually.

Department Recommendation

General Counsel of the
Department of Defense,
Washington, D.C., March 15, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Forwarded herewith is draft legislation "To peal section 309 of title 37, United States Code, which authorizes dditional pay for performance of administrative duty."

This proposal will provide the authority to assist in carrying out e provisions contained in the President's budget for fiscal year 80. The Office of Management and Budget advises that the enactment of this proposal would be in accord with the program of the President. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to repeal an antiquated section of title 37, United States Code. Additional pay for performance of administrative duty historically has been authorized for an officer of the National Guard or of a reserve component of a uniformed service who commands an organization and has administrative functions connected with the position of command. The additional pay provided in 37 U.S.C. § 309 was first authorized in 1920. Over the years the administrative burden on officers commanding National Guard and Reserve units has been reduced in several ways. First, administrative support is provided by a cadre of permanent active duty personnel. Second, civilian technicians now perform administrative functions. Finally, in some circumstances extra paid training periods are authorized. Consequently, it is the opinion of the Department of Defense that the additional pay authorized by 37 U.S.C. § 309 no longer can be justified.

COST AND BUDGET DATA

The enactment of this proposal will result in estimated cost savings of $2 million annually.

Sincerely,

Enclosure. DEANNE C. SIEMER.

A BILL To repeal section 309 of title 37, United States Code, relating to additional pay for performance of administrative duty by an officer of the National Guard or of a reserve component of a uniformed service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 5 of title 37, United States Code, is amended by repealing section 309 and striking out the corresponding item for that section in the chapter analysis.

SEC. 2. This Act is effective on the first day of the first month after the date of enactment.

Rejection of Proposal To Eliminate Payment of an Additional Uniform Allowance

The President's budget proposed the repeal of the authorization in law for payment of a uniform allowance to Reserve officers. Reserve officers are paid a $50 uniform maintenance allowance for each 4 years of Reserve participation. The committee feels this allowance does serve a useful function and rejected the administration's proposal.

TITLE V—CIVILIAN PERSONNEL

Background on Defense Civilian Authorization

Congress is required to authorize the civilian personnel end strengths of the Department of Defense. This enables the Congress to take an overall view of defense manpower rather than focusing only on military manpower. The committee was also concerned that civilians take up an increasing proportion of defense manpower costs and that the costs and effectiveness of substituting civilians for military personnel were difficult to assess.

The Subcommittee on Manpower and Personnel held hearings on civilian manpower in open and closed sessions on February 21, 22, March 7, 20, 21, 27, and April 4, 6, 9, and 10, 1979 and heard testimony from Defense Department manpower experts on the civilian personnel strengths requested by the Department of Defense for fiscal year 1980. Based on the testimony in these hearings, the information provided in the Military Manpower Requirements Report and the Military Manpower Training Report for fiscal year 1980 submitted by the Defense Department and other information provided to the committee, the staff has conducted a thorough review of civilian personnel requirements.

Categories of Civilians Included in the Bill

The end strength figures authorized by Congress represent direct and indirect hire employees, both permanent and temporary, including full-time, part-time and intermittent employees paid from appropriated funds, who are employed to perform military functions administered by the Department of Defense. Indirect hire employees are hired by the host nation in support of U.S. forces stationed abroad. They are estimated to be approximately 78,000 in fiscal year 1980. Foreign nationals who are employed directly by the U.S. Government are classified as direct hires and total some 36,100. The following categories of civilian employees are excluded from the strengths recommended:

(1) Employees performing civilian functions administered by the Department of Defense, the largest of which is the Corps of Engineers Civil Works activities. For fiscal year 1980 the estimated end strength for this function is approximately 30,000.

(2) Employees in special employment programs for students and disadvantaged youths, such as the stay-in-school campaign and the temporary summer aid program. The approximate strength in this program is estimated to be 8,500.

(3) Employees of the National Security Agency who are excluded because employment statistics are classified information.

(4) Employees paid from nonappropriated funds are not included. These total 185,000 for fiscal year 1980.

Committee Recommendations

Reduction of 4,200 From Requested Civilian End Strength—a 0.4 Percent Reduction

For the reasons discussed below, the committee recommends reductions totaling 4,200 (−0.4 percent), from the requested Department of Defense civilian strength for the end of fiscal year 1980. The Department's request for 985,100 direct and indirect hire civilians would be reduced to 980,900 by September 30, 1980. The committee reduction should be accommodated by attrition since overall civilian losses projected for fiscal year 1980 total approximately 130,000. The committee expects the Defense Department to manage a reduction in its civilian personnel carefully to minimize turbulence and hardship. The committee's recommendation is as follows:

CIVILIAN EMPLOYEES, FISCAL YEAR 1980

[In thousands]

	DOD request	Committee recommendation	Change from request	Percent change
Army	360.0	357.5	−2.5	−0.7
Navy/Marine Corps	304.7	305.2	+.5	+.2
Air Force	241.4	240.7	−.7	−.3
Defense Agencies	79.0	77.5	−1.5	−1.9
Total	985.1	980.9	−4.2	−.4

Committee Considerations

Trends in Civilian Strengths

The committee remains concerned with the costs and productivity of defense civilian manpower. The requested number of civilians in the Defense budget will cost $20.8 billion in fiscal year 1980, some 17 percent of the total Defense budget. Although concerns about the increases in manpower costs in the Defense budget are often focused on the cost of military personnel, it should be remembered that since 1964 the number of Defense civilians has declined by 14 percent but those fewer civilians now consume 17 percent of the budget as compared to 15 percent in 1964.

Summary of Request

The following table shows the Department of Defense request for civilian personnel by major mission categories:

DEPARTMENT OF DEFENSE CIVILIAN MANPOWER REQUEST, FISCAL YEAR 1980

[Direct and indirect hire; end strength in thousands; fiscal years]

	1964 actual [1]	1977 actual	1978 actual	1979 plan	1980 request
Strategic	15	10	11	12	11
Tactical/mobility	67	67	52	52	51
Land forces	30	31	18	17	16
Tactical air forces	7	14	13	14	14
Naval forces	(2)	1	1	1	1
Mobility forces	29	21	20	20	20
Auxiliary activities	123	101	107	106	105
Intelligence	11	8	8	8	8
Communications	14	11	12	12	12
Research and development	87	72	78	76	75
Geophysical activities	12	10	10	10	10
Support activities	971	844	847	824	817
Base operating support	357	308	308	296	292
Medical support	32	41	41	42	43
Personnel support	6	18	18	20	21
Training	25	29	29	26	26
Logistics	451	357	359	347	343
Other centralized support	34	54	56	57	56
Management headquarters	65	36	35	36	36
Total DOD [3]	1,175	1,022	1,017	994	985
Army	452	372	371	358	360
Navy	328	298	297	291	285
Marine Corps	19	20	19	19	20
Air Force	338	255	251	248	241
Defense agencies	38	78	78	78	79

[1] Includes civilian reserve technicians not on the Federal payroll in 1964.
[2] Under 500 personnel.
[3] Total may not add due to rounding.

Intelligence Analysis

The committee is convinced of the need to improve intelligence analysis capabilities and recommends an increase of 100 civilians to improve this capability in the intelligence organization of the Army and 100 civilans to improve the capability of Defense Intelligence Agency.

Committee Recommended Reductions by Component

The fiscal year 1980 Defense Department request for civilian per-
onnel is 9,000 below the level planned for the end of fiscal year 1979.
According to testimony, planned reductions will result from contract-
ng for work that can be done more economically by private business,
y increases in productivity and by conversion of some civilian tech-
icians to full-time guardsmen and reservists. The Department of De-
nse will also take over various functions in the Panama Canal Zone,
rimarily medical facilities and dependent schools.

The committee recommendation for fiscal year 1980 includes increases and decreases in certain areas as discussed in greater detail below.

Army.—The committee recommends that the Army request for civilian personnel be reduced by 2,500 (−0.7 percent). By function this is a recommended reduction in overseas adjustments for Taiwan, Iran and Panama (−900), and as a result of deferral of a decision to withdraw combat units from Korea (−500), personnel support in Europe (−300), and dependent support in Europe (−1,100) and recommended increases in foreign military sales adjustments for Iran and Israel (+100), ROTC civilianization (+100) and for intelligence (+100).

The planned overseas troop deployments requested in the President's budget included civilians in Taiwan and Iran for the Army that will now not be needed and an overstatement of the number of civilians to be transferred to the Army in Panama. The committee recommends a reduction of 900 civilians for these adjustments and an increase of 100 civilians for foreign military sales personnel where expected workload increases in sales to Israel will more than offset the reduction in sales to Iran.

The committee recommends denial of an increase of 500 civilians intended to support the 2nd Division in the United States after its withdrawal from Korea based on the deferral of the decision on the withdrawal of troops.

The commitee recommends denial of an increase of 300 civilians for child care, physical recreation and other personnel support in Europe and a reduction of 1,100 civilians engaged in dependent support overseas as part of a program to reduce the number of dependents overseas. Dependent support activities include military community support functions, commissary and postal services, recreation, libraries, transportation services, education programs and similar activities.

The committee recommends an increase of 100 civilians for ROTC support programs to continue a planned civilianization program.

The committee also recommends an increase of 100 civilians to improve Army intelligence analysis capabilities.

Navy.—The committee recommends that the Navy request for civilian personnel be increased by 500 (+0.2 percent). By function this is a recommended reduction in foreign military sales (−100), and in overseas dependent support (−600), and a recommended increase in aircraft maintenance (+1,200).

The committee recommends an increase of 1,200 civilians in aircraft maintenance which the budget proposes to eliminate. While the number of Navy aircraft is declining, the reduction in maintenance personnel and workload will also result in a decline in the operational readiness rate of Navy aircraft. This increase in civilian personnel is intended to maintain readiness rates.

The foreign military sales adjustment reflects net changes in expected workload from sales to Iran and Saudi Arabia (−100).

The recommended reduction in the number of personnel engaged in dependent support activities overseas is similar to the reduction for the Army (−600).

Air Force.—The committee recommends that the Air Force request for civilian personnel be reduced by 700 (−0.3 percent). By function this is a recommended reduction in overseas adjustments for Iran (−100), in foreign military sales adjustments for Iran (−300), and in overseas dependent support (−400) and a recommended increase for operations and maintenance of the three Air Force Airborne Command Posts (+100). These changes are similar to those recommended for active duty personnel.

Defense Agencies.—The committee recommends that the Defense Agencies request for civilian personnel be reduced by 1,500 (−1.9 percent). By function this is a recommended reduction in overseas dependent support (−400) and in unfilled or transferred positions (−1,200) and a recommended increase in intelligence (+100).

The fiscal year 1980 budget requested 900 positions for the Office of the Secretary of Defense, Washington Headquarters Staffs and other Defense Agencies for positions that are not typically filled. In addition, although 1,400 Defense Logistics Agency positions were transferred to the Department of Labor, the budget request reflects a reduction of only 600 positions. The committee recommends a reduction of 1,200 civilian positions which represents 70 percent of these unfilled or transferred positions.

The committee recommended a reduction of 400 civilian personnel for dependent support in overseas dependent schools.

The committee recommends an increase of 100 civilian personnel to improve intelligence analysis capabilities of the Defense Intelligence Agency.

Industrially Funded Civilians

The committee rejected an amendment to the bill which would have excluded civilian personnel engaged in industrially funded activities from the annual congressional authorization of Defense Department civilians. This has been the committee position on this matter for the past several years. The amendment would have exempted 259,100 (26 percent) of the Department of Defense civilians from the congressional authorization.

Industrially funded activities include Navy shipyards, some supply lepots, some ordnance and arsenal activities and some airlift and sea- ift activities and various smaller activities. There is no common defini- ion of industrially funded activities within the Defense Department, nd the definition is ad hoc and inconsistent between the Services. For xample, Marine Corps supply centers are industrially funded, Navy pply centers are not. Some Army and Navy research, development, st and evaluation activities are industrially funded, but Air Force e not. The exclusion of some of these activities from the congres- nal authorization simply because of differing accounting methods not justified.

Defense Department testimony indicates that the overall congres- nal ceiling on civilian manpower has not hampered the ability of ustriallv funded activities to carry out their functions and does vide sufficient flexibility to permit industrial fund activities to hire itional personnel to meet unforeseen workloads. The testimony also points out that efforts by the Department of Defense to change the workforce when workload changes or improve efficiency would not be enhanced by simply excluding industrially funded personnel from the congressional authorization. The Department of Defense again opposes the exclusion of industrially funded civilians from the overall congressional ceiling, as it would decrease management flexibility over the total manpower pool.

The congressional authorization carries no limit in law on specific activities. While the committee may recommend reductions, management flexibility is given to the Secretary of Defense or the Service Secretaries to assign civilian manpower according to the priorities and workloads of the Department's activities. Thus, the more inclusive the authorization, the more management flexibility is provided.

However, the authorization provides an opportunity to carefully plan the manpower needed for various functions and workload. Thus, employment plans, workload plans and funding plans can be reviewed for balance, efficiency, and adequacy. For example, the committee recommends in this report, an increase of 1,200 civilians in Navy aircraft maintenance activities, which are industrially funded, to improve aircraft readiness rates.

Sec. 501(d). Committee Amendment on Civilian Manpower for Maintenance Related Activities

The committee adopted an amendment (Sec. 501(d)) intended to emphasize the priority to be given to maintenance and related activities because of their importance for force readiness. The amendment follows:

> In activities engaged in maintenance, construction, and repair, the Secretary of Defense shall manage manpower resources in a manner that will insure that these activities are provided sufficient civilian manpower to fulfill work requirements for which funds have been appropriated.

Maintenance Programs in Naval Shipyards

The committee continues to support the Navy's efforts to eliminate the backlog of ships awaiting overhaul. The committee is seriously concerned about continuing increases in costs and the high manpower levels accompanying the ship maintenance program. From fiscal year 1975 to fiscal year 1979, the cost of ship overhauls will have jumped 127 percent from $10 million per overhaul to $22.7 million per overhaul.

The fiscal year 1980 ship maintenance program as presented in the President's budget request is outlined below:

SHIP OVERHAUL PROGRAM

	Fiscal year					
	1975	1976	1977	1978	1979	1980
Total active ships	491	476	464	453	455	462
Overhauls in naval shipyards	45	46	44	39	37	36
Overhauls in private shipyards	35	30	46	41	34	30
Overhaul backlog	63	63	42	30	24	13
Naval shipyard employment	61,400	63,700	65,266	58,257	66,902	65,033

SHIP MAINTENANCE MODERNIZATION FUNDS

[In millions of dollars]

	Fiscal year					
	1975	1976	1977	1978	1979	1980
Depot level maintenance:						
Scheduled overhauls	$801	$1,059.0	$1,469.5	$1,571.8	$1,612.3	$1,793.2
Restricted availabilities	245	315.0	356.2	441.9	458.7	475.3
Intermediate maintenance	63	71.0	89.7	93.4	126.8	169.7
Organizational maintenance	52	78.0	137.9	156.1	180.3	212.5
Ship alterations	435	564.0	669.4	764.4	803.4	826.4
Total	1,596	2,087.0	2,722.7	3,027.6	3,181.5	3,477.1
Average cost of ship overhaul	10	13.9	16.3	19.6	22.7	27.2

For the past few years the committee has supported the requested shipyard manpower levels and the ship overhaul program as presented in the budget, while emphasizing the need for productivity improvements. This year's budget does include planned productivity improvements in the Naval shipyards, as well as a program of overhauls that will reduce the backlog of ships awaiting overhauls to 13. The budget, as presented, does not provide for conducting the *Saratoga* Service Life Extension Program (SLEP) in a public shipyard. The committee is concerned that any changes made to the overhaul program not result in declines in productivity, declines in workload or increased costs.

Defense Department Authority To Exceed Congressional Ceilings on Civilians

The committee recommends maintaining the current provision in law which allows the Secretary of Defense to exceed the civilian authorization by 1¼ percent when he determines it is necessary in the national interest to do so. The Secretary of Defense should exercise this authority if some of the efficiencies included in the budget request for productivity improvements and for contracting out cannot be met.

TITLE VI—MILITARY TRAINING STUDENT LOADS

Background

The Congress, commencing with fiscal year 1974, has been required to authorize average military training student loads. Training "loads" represent the average number of military personnel that would be found attending formal military training courses on any given day during the year. These loads do not include training done in the field or in combat units where personnel train as crews or units. Included are the following types of training:

(1) Recruit training includes all basic initial enlisted training for all services for both active and reserve components. In all services, it represents an introduction of the new enlisted man or woman into military life.

(2) Officer acquisition training includes training programs through which officers are procured, such as the Service Military Academies, the Reserve Officers Training Corps, Officer Candidate Schools and Enlisted Commissioning programs.

(3) Specialized training provides both officer and enlisted personnel with the skills and knowledge necessary to perform specific jobs or to operate or maintain specific pieces of equipment.

(4) The Army's One Station Unit Training (OSUT) program combines recruit training and initial skill training for certain skills into a single continuous course.

(5) Flight training provides the basic undergraduate flying skills for pilots, navigators and Naval Flight Officers. This category does not include the major formal advanced combat training programs which are beyond the scope of this authorization since they are conducted by and for operational units. However, some flight-related skills, such as the Air Force navigator, bombardier, and electronic warfare are included.

(6) Professional training includes military education, graduate education, degree completion education and professional development courses not leading to a degree. This training is accomplished at both military and civilian institutions and includes: Senior Service Schools, Staff Colleges, advanced degree programs, Department of Defense schools such as the Defense Systems Management School and enlisted leadership training.

Committee Recommendation

The committee recommends approval of the military training student loads as requested by the Department of Defense, but including a separate authorization for Army One Station Unit Training. In addition, the Secretary of Defense is required to adjust these training loads for the Army, Navy, Marine Corps, Air Force, and Reserve components so that they are consistent with the changes in active duty, reserve and civilian personnel strengths authorized in other titles of this bill.

AVERAGE MILITARY TRAINING STUDENT LOADS, FISCAL YEAR 1980

[By component and major training category]

	Recruit training	Army one station unit training (OSUT)	Officer acquisition training	Specialized skill training	Flight training	Professional development education	Total
Active Forces:							
Army	9,945	19,603	4,856	35,566	1,106	3,392	74,468
Navy	15,682	----------	5,526	37,423	1,302	1,980	61,913
Marine Corps	8,949	----------	363	11,820	713	773	22,618
Air Force	8,542	----------	6,195	22,631	2,484	3,397	43,249
Subtotal loads	43,118	19,603	16,940	107,440	5,605	9,542	202,248
Reserve components:							
Army National Guard	2,604	6,631	206	5,006	89	80	14,616
Army Reserve	1,567	1,556	2	3,107	36	60	6,328
Naval Reserve	282	----------	40	567	----------	17	906
Marine Corps Reserve	1,694	----------	325	1,109	----------	28	3,156
Air National Guard	536	----------	----------	1,260	125	37	1,958
Air Force Reserve	362	----------	17	790	71	36	1,276
Subtotal loads	7,045	8,187	590	11,839	321	258	28,240
DOD total loads	50,163	27,790	17,530	119,279	5,926	9,800	230,488

Discussion

The committee approved an amendment to provide a separate authorization for the Army to be used solely for One Station Unit Training (OSUT). The OSUT training load recommended by the committee is as requested by the Department of Defense. Committee recommendations on these training policies are discussed earlier in the discussion of Army active duty military strengths.

While the committee has approved authorization of the other training loads as requested, it has also included a requirement for the Secretary of Defense to adjust these training loads to be consistent with the active duty, reserve and civilian personnel authorizations. The committee recommendation on active duty manpower includes a net decrease of 2,700 personnel for students and support. The particular areas of concern in training are discussed earlier in the discussion of active duty military strengths.

Reserve Officer Training Corps Scholarships

Testimony received by the committee this year indicated discrepancies among the Services and the need to plan for the future of Reserve Officer Training Corps (ROTC) scholarship programs. While the actual number of ROTC scholarships is about the same among the Services, only about 10 percent of the Army ROTC cadets receive scholarships compared to 71 percent for the Navy. The Army budget for fiscal year 1980, as submitted to the Office of the Secretary of Defense requested an increase of 5,500 scholarships. The Department of Defense disapproved this request. Testimony received by the committee suggested that the present Army scholarship program will not be sufficient in future years.

The committee requests that the Secretary of Defense submit, by December 31, 1979, a report outlining the goals, planned programs, and alternatives with respect to ROTC scholarships, junior ROTC scholarships and platoon leaders class program.

Although the Army has recently increased the number of two-ye
ROTC scholarships to 250, no increased allocation was made to the s
recognized military junior colleges. In view of the long and disti
guished record of these military junior colleges in providing wel
trained military personnel, the committee believes these schools shoul
be supported by Army programs, such as the ROTC scholarships an
recommends an increased allocation of 30 two-year scholarships t
military junior colleges.

TITLE VII—CIVIL DEFENSE

The committee recommends authorization of $106,800,000, a $2,000,000 reduction for civil defense for fiscal year 1980.

Since last year's budget review, Presidential decisions have been made affecting the policy and organization of the civil defense program.

In Presidential Decision (PD) 41, the President directed that the civil defense program enhance the survivability of the American people by planning for population relocation during times of international crisis. He further directed that the program enhance deterrence and stability, and contribute to perceptions of the overall United States-Soviet strategic balance.

In Reorganization Plan No. 3, the President recommended that the Defense Civil Preparedness Agency (DCPA) be transferred from the Department of Defense and consolidated into the Federal Emergency Management Agency (FEMA). While FEMA was brought into existence on April 1, 1979, DCPA was not transferred at that time. It is anticipated that DCPA will be transferred to FEMA by October 1, 1979.

In his message to the Congress in Reorganization Plan No. 3, the President stated that ". . . To maintain a link between our strategic nuclear planning and our nuclear attack preparedness planning, I will make the Secretary of Defense and the National Security Council responsible for oversight of civil defense related programs and policies of the new Agency." At this time the nature of the important links between FEMA, the Department of Defense (DOD) and the National Security Council (NSC) are unknown.

The committee is concerned that the civil defense aspects of the newly integrated FEMA not become enmeshed in the disaster relief aspects of the agency's work to the point where legitimate national security needs are not met. The committee recommends that at an early point in preparing the budget request for FEMA for fiscal year 1981 and for each succeeding fiscal year, the FEMA Administrator consult with and seek the advice of the Secretary of Defense regarding the program, budget, and policies of that portion of the proposed FEMA budget that relates to civil defense matters. Only through such consultation can the programs, policies, and budget of the new agency appropriately respond to civil defense needs. The committee expects the Secretary of Defense to establish a continuing and close relationship with the Administrator to ensure that civil defense programs are developed in full coordination with military needs and with overall national security policy.

At the same time the President submits the budget to Congress for fiscal year 1981, and for each subsequent fiscal year, the Secretary of Defense shall submit to the House and Senate Armed Services Committees a written report on that portion of the proposed FEMA bud relating to civil defense matters. The Secretary shall indicate in s report the extent to which—

(1) the program provided for in the proposed budget is su cient to implement the civil defense policy guidelines prescri by the President;

(2) funds were expended for nuclear attack preparedness pl ning in the preceding fiscal year; and

(3) planning for nuclear attack preparedness has been or being integrated with other strategic nuclear attack planning.

The Secretary of Defense shall also include in such report his asse ment of the adequacy and effectiveness of consultation between t FEMA Administrator, the Secretary of Defense, and the Nation Security Council on matters relating to civil defense, and his evalu tion of the civil defense program provided for in the proposed budg for the fiscal year concerned.

The committee will review carefully this report as part of its exam nation of the fiscal year 1981 civil defense request. If there is an u satisfactory response or it appears that there is inadequate oversig of the civil defense program by the Secretary of Defense and the N tional Security Council, the committee will consider legislative actio in fiscal year 1981.

Any conclusions as to the appropriateness of a future civil defens program of the magnitude being discussed within the Administratio are premature. The committee intends to monitor closely the polic and program development of the civil defense program to assure it i reasonable and contributes to our overall national security.

A two year program as required by the Congressional Budget Act was not included in the civil defense request. The committee will not be inclined to entertain future civil defense budget requests unless they contain detailed program information for two years.

Sec. 702. Personnel and Administrative Expenses

The budget request included a legislative proposal to repeal a provision of the Federal Civil Defense Act that limits the amount that can be appropriated annually for certain activities. The immediate concern is that Federal contributions for personnel and administrative expenses is limited to $35 million. Rather than repeal the provision, the committee recommends increasing the limitation from $35 million to $40 million, and has included a bill provision to that effect.

Sec. 703. Emergency Operation Centers

The request includes $4 million for pilot projects for emergency operation centers. Previously emergency operation centers were funded by 50 percent matching funds from the States. Beginning with the fiscal year 1980 budget, the Administration's intent for this program is to provide 100 percent Federal funding. The committee disagrees with this change in funding and has included a provision in the bill that limits Federal contributions for emergency operation centers or similar facilities to 50 percent. Consistent with this action, the committee recommends a reduction of $2 million for pilot projects for emergency operation centers.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. Amendments to the Uniform Code of Military Justice to Improve Military Discipline

The committee has expressed great concern in the last two years over the state of military discipline. As a result of its hearings on the fiscal year 1980 authorization request, the committee has identified two issues involving the military justice system where it can make legislative changes that will contribute to an improvement of military discipline. The first relates to the so-called *Catlow-Russo* problem, and the second involves the authoritativeness of the *Manual for Courts-Martial*, the extremely important guidebook for the operation of the military justice system.

Subsection (a) of Section 801 deals with the so-called *Catlow-Russo* problem. During its extensive inquiry into recruiter malpractice over the last two years, the committee learned that recent decisions of the Court of Military Appeals had created a serious problem in the military services by holding that defects in the enlistment of the military member, including recruiter malpractice, could be raised by an accused after the commission of an offense and could defeat court-martial jurisdiction. Several instances came to the committee's attention where accused military members raised the issue of recruiter malpractice after commission of an offense, succeeded in obtaining a ruling of no jurisdiction, and were thereupon returned to duty for a time (before administrative separation could be effected) completely immune from military discipline. This situation is made intolerable in the case of alleged recruiter malpractice by the fact that the burden of proof on the jurisdictional issue shifts to the government after being raised by the accused, forcing the government to prove that there was no recruiter malpractice many months or years after the fact, with the recruiter miles away or out of the service. The committee learned that in many instances accused military members were simply discharged after raising the defense because of the difficulty of affirmatively proving that the enlistment was valid, thereby escaping just punishment for their offenses.

The committee strongly believes that these doctrines serve no useful purpose, and severely undermine discipline and command authority. No military member who voluntarily enters the service and serves routinely for a time should be allowed to raise for the first time after committing an offense defects in his or her enlistment, totally escaping punishment for offenses as a result. That policy makes a mockery of the military justice system in the eyes of those who serve in the military services.

Subsection (a) of Section 801, therefore, amends Article 2 of the UCMJ to affirm the law and public policy of the United States dealing with the commencement of *in personam* jurisdiction for purposes of the Code. The amendment is expressly intended to overrule *United States* v. *Russo*, 1 M.J. 134 (C.M.A. 1975), in which the Court of Military Appeals held that an otherwise valid enlistment was void for purposes of UCMJ jurisdiction due to recruiter misconduct in the enlistment process and that this recruiter misconduct estopped the armed forces from relying upon the doctrine of constructive enlistment. This amendment adds two new subsections to Article 2 of the Code to resolve these related yet distinct jurisdictional problems. It is not intended to affect any administrative matter relating to fraudulent enlistment.

The first portion of the amendment (new Subsection (b) of Article 2) overrules that portion of *United States* v. *Russo* which invalidated for jurisdictional purposes an otherwise valid enlistment because of recruiter misconduct in the enlistment process. It does so by reaffirming the law as set forth by the Supreme Court in *In re Grimley*, 137 U.S. 147 (1890), and requiring compliance with only two factors before an enlistment will be considered valid: capacity to understand the significance of enlistment in the armed forces and the voluntary taking of the oath of enlistment. By recommending these amendments, the committee does not suggest that recruiter malpractice be tolerated, but reliance should be placed on prosecution under Articles 83 and 84, and on administrative reforms, to solve this problem.

The second portion of the amendment (new Subsection (c) of Article 2) provides for jurisdiction based upon a constructive enlistment. A constructive enlistment arises at the time an individual submits voluntarily to military authority, meets the mental competency and minimum age qualifications contained in Sections 504 and 505 of Title 10, United States Code, receives military pay or allowances and performs military duties. This doctrine is applicable when there is not an otherwise valid enlistment. An individual who meets the four-part test for constructive enlistment will be amenable to UCMJ jurisdiction even if the initial entry of the individual into the armed forces was invalid for any reason, including recruiter misconduct or other improper Government participation in the enlistment process. This amendment thus overrules those portions of *United States* v. *Brown*, 23 U.S.C. M.A. 162, 165, 48 C.M.R. 778, 781 (1974), *United States* v. *Barrett*, 1 M.J. 74 (C.M.A. 1975), *United States* v. *Harrison*, 5 M.J. 476, 481 (C.M.A. 1978), and *United States* v. *Russo*, which held that improper Government participation in the enlistment process estops the Government from asserting constructive enlistment. It also overrules that portion of *United States* v. *Valadez*, 5 M.J. 470, 473 (C.M.A. 1978) which stated that an uncured regulatory enlistment disqualification, not amounting to a lack of capacity or voluntariness, prevented application of the doctrine of constructive enlistment. The new subsection is not intended to affect reservists not performing active service or civilians. It is intended only to reach those persons whose intent it is to perform as members of the active armed forces and who met the four statutory requirements. It thus overrules such cases as *United States* v. *King*, 11 U.S.C.M.A. 19, C.M.R. 243 (1959). An individual comes within new Subsection (c) whenever he meets the requisite four-part test regardless of other regulatory or statutory disqualification. A person who initially does not voluntarily submit to military authority or who lacks the capacity to do so may do so successfully at a later time and jurisdiction shall attach at that moment. As a result, an individual who fails to meet the minimum age requirements set forth by statute, 17 years of age at present, may form a constructive enlistment upon reaching that age. Similarly, an individual who initially submits to military authority because he or she is given a choice between jail or military service and who subsequently does not protest the enlistment, make any effort to secure his or her release, and accepts pay or allowances may effect a constructive enlistment for jurisdictional purposes.

The second Subsection of Section 801 amends Article 36 of the UCMJ to clarify the authority of the President to promulgate an authoritative manual of procedure for the military justice system covering not only trial procedures, but all pre- and post-trial procedures relating to an offense as well. This amendment is made necessary by a recent decision of the Court of Military Appeals, *United States* v. *Ware*, 1 M.J. 282 (1976), where the view was expressed in dicta that the President's authority to promulgate the *Manual for Courts Martial* was restricted by the language of Article 36 to actual trial procedures only. The committee believes that this interpretation flies in the face of history; if adopted, it would severely threaten the integrity of the military justice system and undermine the authority of the President as Commander-in-Chief. The committee's amendment clarifies what it believes Congress has always intended by enacting Article 36 and its predecessors. While Congress retains the power to amend the UCMJ to alter the military justice system, it entrusts to the President the promulgation of regulations designed to implement the Code and operate the system. The committee made a technical amendment to the legislative proposal, printed below, to clarify the intent of the amendment.

Department Recommendation

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., March 13, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of proposed legislation, "To amend chapter 47 of title 10, United States Code (Uniform Code of Military Justice) to prescribe the power of the President to promulgate procedural rules for the administration of military justice within the armed forces."

The proposal is a part of the Department of Defense legislative program for the 96th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE PROPOSAL

The purpose of the legislation is to clarify and reaffirm the statutory powers of the President to promulgate the Manual for Courts-Martial. Article 36 of the Uniform Code of Military Justice provides in pertinent part:

> The procedure including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter. (10 U.S.C. § 836 (1976)).

In a recent case, the United States Court of Military Appeals suggested that the phrase "cases before courts-martial" in Article 36 refers to those aspects of a case concerned only with the conduct of the trial and excluded, by inference, pretrial and post-trial procedures. *United States* v. *Ware*, 1 M.J. 282, 285 n. 10 (1976) (dicta); *United States* v. *Newcomb*, 5 M.J. 4, 10 (CMA 1978) (Fletcher, C.J., dissenting opinion). *See* also *United States* v. *Larneard*, 3 M.J. 76, 80, 83 (1977); *United States* v. *Heard*, 3 M.J. 14, 20 n. 12 (1977); *United States* v. *Hawkins*, 2 M.J. 23 (1976); *United States* v. *Washington*, 1 M.J. 473, 475 n. 6 (1976). *But see United States* v. *Newcomb*, 5 M.J. 4, 7 (CMA 1978) (Cook, J., concurring opinion).

This interpretation is wrong and has no basis, but the Court might attempt to impose that limitation by judicial decision. Because the government has no avenue of appeal from a decision by the Court of Military Appeals, this interpretation could not be dislodged, even though wrong, other than by legislation. The legislative proposal is necessary to prevent the disruption that would occur if the Court imposed that limitation by judicial decision.

The proposal neither changes nor expands the existing power under which the President promulgates the Manual for Courts-Martial. The language of the present Article 36 may be traced to Article 38 of the Articles of War of August 29, 1916, Chapter 418, § 1342, 39 Stat. 656, which provided:

> The President may by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals: *Provided*, That nothing contrary to or inconsistent with these articles shall be so prescribed: *Provided further*, That all rules made in pursuance of this article shall be laid before Congress annually.

This provision has remained virtually unchanged in pertinent part through successive amendments of the Articles of War and incorporation into Article 36 of the Uniform Code of Military Justice. It has provided the statutory authority for coverage of pretrial and post-trial procedures in every edition of the Manual for Courts-Martial issued by the President since 1928.

The fair and efficient operation of the military justice system is dependent upon the authoritative legal guidance provided to members of the armed forces by the Manual for Courts-Martial. Enactment of the proposed legislation will reaffirm the power exercised by the President for more than fifty years to prescribe a comprehensive and effective Manual for Courts-Martial.

Cost and Budget Data

The enactment of this proposal will cause no increase in budgetary requirements for the Department of Defense.

Sincerely,

Enclosure.

Deanne C. Siemer.

A BILL To amend chapter 47 of title 10, United States Code, to prescribe the power of the President to promulgate rules for the administration of military justice within the armed forces

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 836(a) of title 10, United States Code, is amended by striking out "The procedure," in the first sentence and inserting in place thereof:

"Pretrial, trial, and post-trial procedures," and by striking out "in cases before courts-martial," in the first sentence and inserting in place thereof:

"for actions arising under this chapter triable in courts-martial,".

Sec. 802. Import Restrictions and Trade Sanctions Against Zimbabwe-Rhodesia

The committee adopted a general provision which requires the President to cease import restrictions on strategic materials from Zimbabwe-Rhodesia and to lift all other trade sanctions against that country on the date of enactment of the Act or on June 30, 1979, whichever is later.

A similar amendment was added to the fiscal year 1972 Defense Authorization Act. It provided that importation of strategic materials could not be restricted if such importation from a communist country was permitted. This amendment allowed importation of Rhodesian chrome until 1977, when the provision was overridden by a later enactment. The present amendment deals with any restriction on impor-
ation of strategic and critical materials, regardless of other sources,
nd adds a prohibition on other trade sanctions as well.

ec. 803. Extension of Polaris Program

During Senate floor consideration of the fiscal year 1979 Supple-
ental Authorization Bill, an amendment was agreed to which pre-
ents the Navy from deactivating any of its Polaris submarines for
ne year and mandates a thorough study of the alternatives available
r keeping Polaris in operation for a longer period. The amendment,
hich is repeated in this bill, reflects concern over the slow pace of
rident production, and the consequent danger of a drop in our sea-
sed deterrent as Polaris submarines reach the end of their useful life
the next few years. The recommended amendment would require the

Navy to study ways of keeping Polaris in service longer to help bridge this potential deterrent gap.

Sec. 804. SAR Reporting

The committee recommends adoption, with certain technical drafting changes, of a legislative proposal by the Department of Defense, incorporated into S. 428 as introduced, which would raise the dollar minima for Selected Acquisition Reports and slightly alter the schedule for transmission of such reports. This amendment will have no effect on the committee's ongoing oversight of the procurement process.

Sec. 805. Assistance to the 1980 Winter Olympic Games

The committee bill includes a provision authorizing up to $10 million for assistance to the 1980 Winter Olympic Games. The committee is concerned over the possible use of military personnel for certain nonmilitary purposes. Except for emergency situations, the use of armed forces personnel and equipment should only be for specialized services that are uniquely within the competence of the Department of Defense and that cannot be readily provided locally by the Lake Placid Olympic Organizing Committee or by other State and Federal agencies. It is not intended that the armed forces personnel will be used for the construction of facilities or as a replacement for services available from civilian sources.

DEPARTMENTAL RECOMMENDATION

General Counsel of the Department of Defense,
Washington, D.C., January 26, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is forwarded herewith legislation "To authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes."

In accordance with the Congressional Budget Act of 1974, we are also submitting herewith, as separate legislation, a similar request for authorization of appropriations for fiscal year 1981.

These proposals are part of the Department of Defense legislative program for the 96th Congress and the Office of Management and Budget has advised that enactment of the proposals would be in accordance with the program of the President. These proposals are being sent to the Speaker of the House of Representatives.

Title I provides procurement authorization for the military departments and Defense agencies and for the United States share of the cost of the acquisition of the Airborne Early Warning and Control System by the North Atlantic Treaty Organization in amounts equal to the budget authority included in the President's budget for fiscal year 980.

Title II provides for the authorization of each of the research, evelopment, test and evaluation appropriations for the military epartments and the Defense agencies in amounts equal to the budget uthority included in the President's budget for fiscal year 1980.

Title III prescribes the end strengths for active duty personnel in ch component of the Armed Forces as required by section 138(c)(1) title 10, United States Code, in the numbers provided for by the dget authority and appropriations requested in these components in e President's budget for fiscal year 1980.

Title IV provides for average strengths of the Selected Reserves of ch Reserve component of the Armed Forces as required by section 8(b) of title 10, United States Code, in the numbers provided for by budget authority in appropriations requested for the Department Defense in the President's budget for fiscal year 1980. Within the rage strengths of the Selected Reserve, title IV also prescribes end strengths for Reserve component members on full-time active duty for the purpose of administering the Reserve forces.

Title V provides for civilian personnel end strengths for each component of the Department of Defense as required by section 138(c)(2) of title 10, United States Code, in the numbers provided for by the budget authority in appropriations requested for the Department of Defense in the President's budget for fiscal year 1980.

Title VI provides for the average military training student loads as required by section 138(d)(1) of title 10, United States Code, in the numbers provided for this purpose in the President's budget for fiscal year 1980.

Title VII of the fiscal year 1980 proposal requests three general provisions that would: (1) amend the requirement for the submission of selected acquisition reports for major defense systems required by section 811(a) of the Department of Defense Appropriation Authorization Act, 1976 by increasing the dollar levels above which reports must be submitted and changing the reporting date for the first report each calendar year, (2) repeal the ceilings on the numbers of high ranking military and civilian personnel established by section 811(a) of the Department of Defense Appropriation Authorization Act, 1978, and (3) provide authorization for appropriations to support for 1980 Olympic winter games.

Sincerely,

Enclosures. DEANNE C. SIEMER.

A BILL To authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1980".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $946,400,000; for the Navy and the Marine Corps, $3,967,900,000; for the Air Force, $7,931,200,000, of which $250,200,000 is authorized to be appropriated for the United States contribution of its fiscal year 1980 share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS).

MISSILES

For missiles: for the Army, $1,250,500,000; for the Navy, $1,548,300,000; for the Marine Corps, $20,500,000; for the Air Force, $2,288,600,000.

NAVAL VESSELS

For naval vessels: for the Navy, $6,173,800,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,692,500,000; for the Marine Corps, $13,000,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $267,200,000.

OTHER WEAPONS

For other weapons: for the Army, $196,400,000; for the Navy, $158,000,000; for the Marine Corps, $18,700,000;

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,927,000,000;

For the Navy (including the Marine Corps), $4,489,341,000;

For the Air Force, $5,005,100,000;

For the Defense Agencies, $1,120,000,000, of which $33,400,000 is uthorized for the activities of the Director of Test and Evaluation, Defense.

TITLE III—ACTIVE FORCES

Sec. 301. For fiscal year 1980, each component of the Armed Forces authorized an end strength for active duty personnel as follows:

(1) The Army, 774,000;
(2) The Navy, 528,000;
(3) The Marine Corps, 189,000;
(4) The Air Force, 559,000.

TITLE IV—RESERVE FORCES

Sec. 401. (a) For the fiscal year 1980, the Selected Reserve of each serve component of the Armed Forces shall be programed to at- n an average strength of not less than the following:

(1) The Army National Guard of the United States, 355,700;
(2) The Army Reserve, 197,400;
(3) The Naval Reserve, 48,900;
(4) The Marine Corps Reserve, 33,600;

(5) The Air National Guard of the United States, 92,500;
(6) The Air Force Reserve, 57,300;
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths authorized in subsection (a) each component of the Armed Forces is authorized, as of September 30, 1980, no more than the following numbers of Reserve component members serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve forces.

(1) The Army National Guard of the United States, 6,244;
(2) The Army Reserve, 4,288;
(3) The Naval Reserve, 207;
(4) The Marine Corps Reserve, 67;
(5) The Air National Guard of the United States, 1,560;
(6) The Air Force Reserve, 681.

(c) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of individual members.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1980, the Department of Defense is authorized an end strength for civilian personnel of 985,146.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment for this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increase or decrease in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1980, each component of the armed forces is authorized an average military training student load as follows:

(1) The Army, 74,468;
(2) The Navy, 61,913;
(3) The Marine Corps, 22,618;
(4) The Air Force, 43,249;
(5) The Army National Guard of the United States, 14,616;
(6) The Army Reserve, 6,328;
(7) The Naval Reserve, 906;
(8) The Marine Corps Reserve, 3,156;
(9) The Air National Guard of the United States, 1,958;
(10) The Air Force Reserve, 1,276.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94–106, 89 Stat. 531) is amended to read as follows:

"(a) Beginning with the quarter ending December 31, 1979, the Secretary of Defense shall submit to the Congress quarterly written selected acquisition reports for those major defense systems which are estimated to require a total cumulative financing for research, development, test, and evaluation in excess of $75,000,000 or a cumulative production investment in excess of $300,000,000. The report for the quarter ending December 31 shall be submitted within 20 days after the President transmits the Budget to Congress for the ensuing fiscal year; the other three reports shall be submitted within 30 days after the end of each fiscal year quarter. If preliminary reports are submitted, then final reports shall be submitted to Congress within 15 days after the submission of the preliminary reports."

SEC. 702. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79, 91 Stat. 323) is repealed.

SEC. 703. There is authorized to be appropriated to the Department of Defense for fiscal year 1980 an amount not to exceed $10,000,000 for the purpose of providing assistance for the 1980 Olympic winter games as authorized by section 816(a) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95–485, 92 Stat. 1611); *Provided*, That the costs for pay and non-travel related allowances of members of the Armed Forces of the United States shall not be charged to appropriations made pursuant to this authorization. Except for funds used for pay and non-travel related allowances of members of the Armed Forecs of the United States, no funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

A BILL To authorize appropriations for fiscal year 1981, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1981".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,242,900,000; for the Navy and the Marine Corps, $4,714,100,000; for the Air Force, $9,138,600,000, of which $354,900,000 is authorized to be appropriated for the United States contribution of its fiscal year 1981 share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS).

MISSILES

For missiles: for the Army, $1,481,800,000; for the Navy, $1,693,300,000; for the Marine Corps, $33,500,000; for the Air Force, $2,644,700,000.

NAVAL VESSELS

For naval vessels: for the Navy, $6,534,900,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,818,400,000; for the Marine Corps, $62,900,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $381,900,000.

OTHER WEAPONS

For other weapons: For the Army, $430,400,000; for the Navy, $174,300,000; for the Marine Corps, $2,600,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,993,225,000;

For the Navy (including the Marine Corps), $4,570,586,000;

For the Air Force, $6,272,640,000;

For the Defense Agencies, $1,234,838,000, of which $37,700,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1981, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 774,000;
(2) The Navy, 528,000;
(3) The Marine Corps, 189,000;
(4) The Air Force, 559,000.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For the fiscal year 1981, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 367,900;
(2) The Army Reserve, 201,400;
(3) The Naval Reserve, 48,900;
(4) The Marine Corps Reserve, 33,600;
(5) The Air National Guard of the United States, 96,500;
(6) The Air Force Reserve, 58,500;
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths authorized in subsection (a) each component of the Armed Forces is authorized, as of September 30, 1981, no more than the following numbers of Reserve component members serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve forces.

(1) The Army National Guard of the United States, 8,913;

(2) The Army Reserve, 4,911;
(3) The Naval Reserve, 207;
(4) The Marine Corps Reserve, 67;
(5) The Air National Guard of the United States, 2,441;
(6) The Air Force Reserve, 1,009.

(c) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of individual members.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1981, the Department of Defense is authorized an end strength for civilian personnel of 978,146.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy, (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment for this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1981, each component of the armed forces is authorized an average military training student load as follows:

(1) The Army, 70,886;
(2) The Navy, 64,308;
(3) The Marine Corps, 22,174;
(4) The Air Force, 43,962;
(5) The Army National Guard of the United States, 14,041;
(6) The Army Reserve, 6,899;
(7) The Naval Reserve, 1,037;
(8) The Marine Corps Reserve, 3,159;
(9) The Air National Guard of the United States, 1,964;
(10) The Air Force Reserve, 1,293.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 26, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is draft legislation, "To authorize appropriations for civil defense programs for fiscal years 1980 and 1981, and for other purposes", as required by the Congressional Budget Act of 1974.

In accordance with section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. app. § 2260) the fiscal year 1980 draft bill authorizes the appropriation of $108.8 million for civil defense programs. That is the same amount included for those programs in the President's budget for fiscal year 1980. The civil defense programs are included in the budget request for the Federal Emergency Management Agency, which is scheduled to be activated about April 1, 1979.

The draft bill also repeals the second proviso in section 408 of the Federal Civil Defense Act of 1950. That proviso limits the amount that an be appropriated each year for certain specified purposes. For xample, appropriations for contributions to the States for personnel nd administrative expenses under section 205 of the Act are limited to 35 million annually. The second proviso was enacted in 1958. At that ime the programs on which the limitations are placed were authorized or a limited period and were not reviewed annually by Congress. Since hen, the authorization for one of them has expired (authority for ontribution to the States for personal equipment for State and local orkers under section 201(i) expired in 1964). The other programs re now authorized on a permanent basis and their appropriations are ibject to prior authorization every year. The authorizing and appropriating Committees oversee the programs in the annual budget process. Hence, the limitations on annual appropriations in the second proviso of section 408 of the Act were not required any longer.

The limitation on appropriations for contributions to the States for personnel and administrative expenses under section 205 will affect this program seriously in fiscal year 1980. The fiscal year 1979 appropriation permitted allocation of up to $35 million for that purpose. The President's budget for fiscal year 1980 requests $37.1 million, which is above the statutory limit. Contributions to the States for personnel and administrative expenses are indispensable to the civil defense program, particularly to the dual use concept in peacetime emergencies. Repeal of the second proviso of section 408 of the Federal Civil Defense Act of 1950 is essential to continuing the program.

Finally, the draft bill authorizes the appropriation of an additional $1.41 million for fiscal year 1979 to cover the October 1978 pay increase and such sums as may be necessary for fiscal year 1980 for those additional administrative expenses of the Federal Emergency Management Agency related to the civil defense program which result from Reorganization Plan No. 3 of 1978 and related Executive Orders and for increases resulting from adjustments in: salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs.

The Office of Management and Budget advises that enactment of these proposals would be in accord with the President's program. Identical legislation is being sent to the Speaker of the House of Representatives.

Sincerely,

L. NIEDERLEHNER
(For Deanne C. Siemer).

Enclosure.

A BILL To authorize appropriations for civil defense programs for fiscal years 1980 and 1981, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) There is hereby authorized to be appropriated for programs to carry out the provisions of the Federal Civil Defense Act of 1950—

(1) for fiscal year 1979 the sum of $1,410,000 in addition to the sum authorized to be appropriated for that fiscal year by section 701 of Pub. L. No. 95–485;

(2) for fiscal year 1980 the sum of $108,800,000 together with such sums as may be necessary for those additional administrative expenses of the Federal Emergency Management Agency related to the civil defense program which result from Reorganization Plan No. 3 of 1978 and related Executive Orders, and for increases resulting from adjustments in: salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs; and

(3) for fiscal year 1981 such sums as may be necessary.

(b) Section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. app. § 2260) is amended by—

(1) striking out the colon after "thirty days after such allocation or transfer" and inserting a period in place thereof; and

(2) striking out the proviso that begins with "Provided further,".

COMMITTEE ACTION

In accordance with the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, there is set forth below the committee vote to report this bill, S. 428, as amended.

In favor: Senators Stennis, Jackson, Cannon, Byrd of Virginia, Nunn, Culver, Hart, Morgan, Exon, Levin, Tower, Thurmond, Goldwater, Warner, Humphrey, Cohen and Jepsen.

Opposed: None.

Vote: Unanimous, 17–0.

The other roll call votes on amendments to the bill which were taken up during the course of the markup have been made public and are available at the committee.

FISCAL DATA

With respect to 5-year cost projections, under Public Law 91–510, the Legislative Reorganization Act of 1970, certain Senate rules and procedures were revised. Shown below is the legislative language:

> SEC. 252(a)(1) The report accompanying each bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations) shall contain—
>
> (A) an estimate, made by such committee, of the costs which would be insured in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and
>
> (B) a comparison of the estimate of costs described in subparagraph (A) made by such committee with any estimate of costs made by any Federal agency;
>
> (C) in lieu of such estimate or comparison, or both, a statement of the reasons why compliance by the committee with requirements of subparagraph (A) or (B), or both, is impracticable.
>
> (2) It shall not be in order in the Senate to consider any such bill or joint resolution if such bill or joint resolution was reported in the Senate after the effective date of this subsection and the report of that committee of the Senate which reported such bill or joint resolution does not comply with the provisions of paragraph (1) of this subsection.

Below is the letter received in compliance with the legislation. This bill is an annual authorization and does not, within its own terms, generate costs, beyond fiscal year 1978 even though the funds author-

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ized to be obligated by this act may not be expended for several years in the future. The fiscal year authorizations herein provided are reviewed annually by the committee and the Congress.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., February 16, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (P.L. 91-510), indicated below is an estimate of how the $40,024.4 million authorization now requested in FY 1980 will be expended over the FY 1980-1985 period.

Fiscal Year	*Millions*
1980	$9,400.0
1981	13,400.0
1982	7,300.0
1983	3,900.0
1984	2,300.0
1985	1,400.0
Beyond	2,324.4

The uncertainty of future year Defense programs precludes precise estimates, but I estimate that to support the forces contained in the Annual Defense Report on the FY 1980 Budget, authorizations for procurement and RDT&E in the range of $45-57 billion would be required for each of the next five years.

Sincerely,

FRED P. WACKER,
Assistant Secretary of Defense.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 30, 1979.

1. Bill number: S. 428.

2. Bill title: Department of Defense Appropriation Authorization Act, 1980.

3. Bill status: As ordered reported by the Senate Committee on Armed Services on May 24, 1979.

4. Bill purpose: This bill authorizes appropriations during the fiscal year 1980 for: The procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons; research, development, test, and evaluation; and programs of the Federal Emergency Management Agency.

This bill prescribes authorized personnel strengths for each active duty component, for the Selected Reserve of each Reserve component, for the civilian personnel of the Department of Defense and for military student training loads.

There are general provisions of the bill to:

Waive reimbursement and surcharges for services otherwise chargeable and assume other contingent liabilities associated with the North Atlantic Treaty Organization (NATO) E-3A program.

Eliminate for a member of a uniformed service in pay grade E–1, E–2, E–3 or E–4 (2 years or less service) entitlement to travel and transportation of his dependents, movement of his household effects and transportation of his motor vehicle to or from and place outside the United States (Junior Enlisted Travel Entitlement).

This bill also includes several additional provisions which do not have a cost impact.

5. Cost estimate:

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
Function 050:					
Estimated authorization amount	90,037	—80	—80	—178	—188
Estimated outlays	59,167	13,099	7,043	4,080	2,451
Function 400:					
Estimated authorization amount	25				
Estimated outlays	24	(1)			
Total:					
Estimated authorization amount	90,062	—80	—80	—178	—188
Estimated outlays	59,191	13,099	7,043	4,080	2,451

[1] Less than $500,000.

See Tables I and II for additional detail.

6. Basis of estimate: All estimates assume that funds will be appropriated for the full amount of the authorization and that funds will be available for obligation by 1 October 1979. The estimates for Active Military Personnel, Reserve Military Personnel and Civilian Personnel include the direct pay and allowances associated with these personnel. Retired pay is excluded. Pay costs are based on pay as included in the fiscal year 1980 President's Budget and a 1 October payraise of 5.5 percent. Adjustments for committee changes were made at the average cost of the particular category of personnel affected by the committee change.

Key assumptions for other estimates were as follows:

Savings associated with elimination of Junior Enlisted Travel Entitlement for 1980 through 1982 were estimated by projecting through 1982 the costs of these moves as reflected in the Department of Defense fiscal year 1980 Congressional justification data and adjusting the costs for inflation. In 1983 and 1984 the savings also reflect the fact that personnel who were denied travel entitlements overseas stations in 1980 and 1981 will not require return travel to the United States three years later.

Costs associated with waivers and assumed liabilities resulting from the NATO E–3A program are as estimated by the Department of Defense.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Julia Doherty and Patrick L. Renehan.

10. Estimate approved by:

James L. Blum,
Assistant Director
for Budget Analysis.

TABLE I.—BUDGET IMPACT FOR ANNUAL AUTHORIZATIONS

[In thousands of dollars; fiscal years]

	Authorization amount	Estimated outlays				
		1980	1981	1982	1983	1984
BUDGET FUNCTION 050						
Title I—Procurement:						
Aircraft procurement, Army	946,400	44,292	406,195	257,232	142,717	67,478
Missile procurement, Army	1,205,300	142,225	618,319	401,365	37,364	6,026
Weapons and tracked combat vehicles, Army	1,695,500	71,211	542,560	508,650	237,370	186,505
Aircraft procurement, Navy	4,392,000	654,408	1,712,880	922,320	527,040	263,520
Weapon procurement, Navy	2,025,000	180,225	749,250	526,500	405,000	121,500
Shipbuilding and conversion Navy	5,791,600	137,840	637,076	781,866	781,866	781,866
Procurement, Marine Corps	58,700	1,761	11,388	18,220	9,057	7,402
Aircraft procurement, Air Force	7,856,200	659,921	2,356,860	2,121,174	1,492,678	942,744
NATO AWACS	243,100	20,420	72,930	65,637	46,189	29,172
Other procurement, Air Force	0	0	0	0	0	0
Missile procurement, Air Force	2,213,900	440,566	974,116	420,641	221,390	132,834
Total, title I	26,427,700	2,352,869	8,081,574	6,023,605	3,900,672	2,539,048
Title II—R.D.T. & E.:						
R.D.T. & E., Army	2,933,900	1,801,415	896,013	200,972	23,471	0
R.D.T. & E., Navy	4,513,296	2,677,287	1,431,617	217,090	108,770	0
R.D.T. & E., Air Force	4,324,100	2,637,701	908,061	475,651	172,964	86,482
Director of test and evaluation, Defense	33,400	11,690	17,034	3,006	1,670	0
MX missile program	670,000	408,700	140,700	73,700	26,800	13,400
R.D.T. & E., Defense agencies	1,076,600	565,861	364,860	121,871	24,008	0
Total, title II	13,551,296	8,102,654	3,758,285	1,092,290	357,634	99,882
Title III [1]—Active Forces: Pay for active military personnel	26,735,726	26,254,483	481,243	0	0	0
Title IV [1]—Reserve Forces: Pay for reserve forces	2,189,010	2,149,608	39,402	0	0	0
Title V [1]—Civilian personnel: Pay for civilian personnel	21,089,350	20,287,955	801,395	0	0	0
Title VII—Civil defense: Federal Emergency Management Agency	106,800	83,411	16,020	7,369	0	0
Title VIII—General provisions: 1980 Olympic Winter Games	10,000	9,000	1,000	0	0	0
Total, budget function 050	90,109,882	59,239,980	13,178,919	7,123,264	4,258,356	2,638,930
Budget function 400: Title IV—Coast Guard Selected Reserve	24,516	24,075	441	0	0	0

[1] Estimated authorization amounts.

TABLE II.—OTHER AUTHORIZATIONS: ESTIMATED AUTHORIZATION AMOUNTS AND ESTIMATED OUTLAYS

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
Function 050:					
Cost of NATO E-3A program waivers	7	6	11	12	15
Elimination of junior enlisted travel entitlements	−80	−86	−91	−190	−203

CONGRESSIONAL ACTION ON PROCUREMENT, R.D.T. & E. AND CIVIL DEFENSE AUTHORIZATION REQUESTS

Fiscal year	Authorization request	Senate authorization	House authorization	Conference	Appropriated
1964	$15, 358, 691, 000	$14, 951, 491, 000	$15, 856, 391, 000	$15, 314, 291, 000	$14, 364, 690, 000
1965	17, 185, 300, 000	17, 040, 140, 000	16, 914, 800, 000	16, 967, 620, 000	16, 722, 391, 000
1966	19, 363, 050, 000	15, 283, 800, 000	15, 303, 400, 000	[1] 19, 468, 250, 000	[1] 19, 320, 550, 000
1967	20, 769, 659, 000	17, 170, 059, 000	17, 858, 059, 000	[1] 21, 404, 459, 000	[1] 21, 057, 559, 000
1968	21, 066, 432, 000	20, 765, 332, 000	21, 481, 032, 000	21, 168, 032, 000	20, 149, 432, 000
1969	22, 385, 052, 000	21, 341, 738, 000	21, 636, 964, 000	21, 625, 750, 000	18, 491, 041, 000
1970	21, 963, 660, 000	19, 988, 886, 000	21, 347, 860, 000	20, 710, 502, 000	[2] 19, 311, 520, 000
1971	20, 317, 430, 000	[3] 19, 242, 889, 000	20, 237, 489, 000	[3] 19, 929, 089, 000	[3] 18, 997, 376, 000
1972	[4 5 7] 22, 359, 129, 000	[6] 21, 016, 417, 000	[5] 21, 252, 682, 000	[6] 21, 316, 870, 000	20, 461, 802, 000
1973	[8] 23, 272, 971, 000	20, 521, 671, 000	21, 318, 788, 250	[9] 21, 588, 747, 000	19, 567, 838, 000
1974 [10 12]	21, 959, 100, 000	20, 947, 653, 000	20, 445, 255, 000	21, 299, 520, 000	20, 163, 250, 000
1975 [11]	23, 130, 139, 000	21, 819, 321, 000	22, 642, 963, 000	22, 195, 037, 000	[13] 20, 892, 540, 000
1976	28, 562, 388, 000	[15] 25, 233, 535, 000	26, 539, 023, 000	25, 513, 383, 000	24, 850, 879, 000
197T	5, 863, 737, 000	5, 271, 798, 000	5, 474, 017, 000	5, 354, 723, 000	5, 193, 638, 000
1977	[14] 34, 218, 657, 000	31, 831, 348, 000	33, 256, 443, 000	32, 522, 202, 000	31, 626, 183, 000
1978 [16]	36, 258, 150, 000	36, 329, 077, 000	36, 484, 962, 000	36, 573, 681, 000	33, 771, 625, 000
1979 [17]	35, 483, 812, 000	35, 235, 969, 000	35, 235, 969, 000	35, 235, 969, 000	34, 079, 300, 000
1980	40, 123, 241, 000				

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[1] Includes supplemental which is not included in House/Senate authorizations since supplemental request was received subsequent to House/Senate action on initial authorization request.

[2] Of this amount $350,000,000 to be derived by transfer from stock funds.

[3] Includes $334,000,000 for Safeguard construction and family housing.

[4] Reflects budget amendment submitted subsequent to House action (+ $111,000,000).

[5] Includes $183,600,000 for Safeguard construction and family housing.

[6] Includes $109,570,000 for Safeguard construction and family housing.

[7] Includes $59,762,000 additional requested for civilian pay increases pursuant to Public Law 91-656.

[8] Includes $3,000,000 for special foreign currency program for Navy under R.D.T. & E. appropriation; includes fiscal year 1973 budget amendments of $54,000,000 for civilian personnel pay raise, $254,800,000 for various programs, and June 27, 1972, amendments of $770,000,000 for Southeast Asia and SALT related items.

[9] Includes $644,900,000 additional authorization in sec. 801 of Public Law 92-570.

[10] Includes $2,600,000 for special foreign currency program for Navy under R.D.T. & E. appropriation.

[11] Includes $2,570,000 for special foreign currency program for Navy under R.D.T. & E. appropriation.

[12] Does not include the Feb. 4, 1974, supplemental authorization request for procurement and R.T.D. & E. in the amount of $1,244,589,000.

[13] Does not include $700,000 appropriated for military support of South Vietnam.

[14] Includes authorization amendments ($317,000,000 addition to Air Force missiles for Minuteman, $974,000,000 addition to Navy Shipbuilding and $200,000,000 for Navy R.D.T. & E.).These amendments were received subsequent to, and therefore not considered in, House authorization action.

[15] Includes $221,000,000 fiscal year 1976 supplemental authorization for repair and modernization of the U.S.S. "Belknap'' guided missile cruiser.

[16] Includes the July 13, 1977 supplemental request for procurement and R.D.T. & E. in the amount of $404,970,000.

[17] Does not include the February 28, 1979, amended supplemental request for procurement and R.D.T. & E. in the amount of $2,002,200,000.

Notes:

During fiscal years 1964 and 1965 tracked combat vehicles were not subject to authorization action.

During fiscal year 1964, 1965, and 1976 the emergency fund under R. & D. was no subject to authorization action.

Authorization for other weapons was not required prior to fiscal year 1971.

Authorization for torpedoes and related support equipment was not required prior to fiscal year 1972.

Senate/House authorizations reflect only those major weapons systems for South Vietnam support which would be subject to authorization process (excludes personnel and operating funds).

Authorization for Civil Defense was not required prior to fiscal year 1978.

RELATIONSHIP OF ANNUAL AUTHORIZATION TO DEPARTMENT OF DEFENSE APPROPRIATIONS

History of Section 138, Title 10, United States Code

(Superseding "Section 412")

The jurisdiction of the committee so far as specific annual authorizations are concerned was increased significantly in 1959 by the enactment of section 412(b) of Public Law 86–149 which required annual congressional authorization of appropriations for the procurement of aircraft, missiles, and naval vessels. That law was amended and expanded as follows:

In 1962 (Public Law 87–436) to require similar authorization of appropriations for research, development, test, or evaluation associated with aircraft missiles, and naval vessels;

In 1963 (Public Law 88–174) to require authorization of appropriations for all research, development, test, or evaluation carried on by the Department of Defense;

In 1965 (Public Law 89–37) to require authorization of appropriations for the procurement of tracked combat vehicles;

In 1967 (Public Law 90–168) to require annual authorization of the personnel strengths of each of the Selected Reserves of the Reserve components as a prior condition for the appropriation of funds for the pay and allowances for the Reserve components;

In 1969 (Public Law 91–121) to require authorization of appropriations for the procurement of other weapons to or for the use of any armed force of the United States. (Essentially, heavy, medium, and light artillery, antiaircraft artillery, rifles, machineguns, mortars, small arms weapons, and any crew-fired piece using fixed ammunition);

In 1970 (Public Law 91–441) to require authorization of appropriations to or for the use of the Navy for the procurement of torpedoes and related support equipment; and to require authorization of the average annual active duty personnel strength for each component of the Armed Forces as a condition precedent to the appropriation of funds for this purpose;

In 1972 (Public Law 92–436) to require annual authorization for the average military training student loads for each component of the Armed Forces, and modified the provisions relating to authorization for active duty personnel strength; and

In 1973 (Public Law 93–155) to require authorization for end strength civilian employment for each component of the Defense Department in each fiscal year.

In 1975 (Public Law 94–106) to require the annual authorization of military construction of ammunition facilities.

Also, in 1973 these enactments were codified by section 803(a) of Public Law 93–155 into title 10, United States Code, as section 138. The law today reads as follows:

§ 138. Secretary of Defense: Annual authorization of appropriations for armed forces

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment; or

(6) military construction (as defined in subsection (e) of this section);

unless funds therefor have been specifically authorized by law.

(b) Congress shall authorize the personnel strength of the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year for the pay and allowances of members of any reserve component of the armed forces unless the personnel strength of the Selected Reserve of that reserve component for that fiscal year has been authorized by law.

(c)(1) Congress shall authorize the end strength as of the end of each fiscal year for active-duty personnel for each component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the active-duty personnel of any component of the armed forces unless the end strength for active-duty personnel of that component for that fiscal year has been authorized by law.

(2) Congress shall authorize the end strength as of the end of each fiscal year for civilian personnel for each component of the Department of Defense. No funds may be appropriated for any fiscal year to or for the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

(3) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for he strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal ear and the national security policies of the United States in effect t the time. The justification and explanation shall specify in detail or all military forces, including each land force division, carrier and ther major combatant vessel, air wing, and other comparable unit, ne—

(A) unit mission and capability;

(B) strategy which the unit supports; and

(C) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

It shall also include a detailed discussion of (i) the manpower required for support and overhead functions within the armed forces and the Department of Defense, (ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies, and (iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions. Such report shall also identify, define, and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

(d)(1) Congress shall authorize the average military training student loads for each component of the armed forces. Such authorization is not required for unit or crew training student loads, but is required for student loads for the following individual training categories—

(A) recruit and specialized training;

(B) flight training;

(C) professional training in military and civilian institutions; and

(D) officer acquisition training.

No funds may be appropriated for any fiscal year for training military personnel in the training categories described in clauses (A)–(D) of any component of the armed forces unless the average student load of that component for that fiscal year has been authorized by law.

(2) The Secretary of Defense shall submit to Congress a written report, not later than March 1 of each fiscal year, recommending the average student load for each category of training for each component of the armed forces for the next three fiscal years, and shall include in that report justification for, and explanation of, the average student loads recommended.

(e) For purposes of subsection (a)(6) of this section, the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies) but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85–241 (71 Stat. 556) applies.

REGULATORY IMPACT

Paragraph 5 of rule XXIX of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on such bill. The committee finds that in the case of S. 428 as amended there is no regulatory impact.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows: Existing law to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.

TITLE 10, UNITED STATES CODE—ARMED SERVICES

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

CHAPTER 4.—DEPARTMENT OF DEFENSE

* * * * * * *

§138. Secretary of Defense: Annual authorization of appropriations for armed forces

* * * * * * *

(c)(1) Congress shall authorize the end strength as of the end of each fiscal year for active-duty personnel for each component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the active-duty personnel of any component of the armed forces unless the end strength for active-duty personnel of that component for that fiscal year has been authorized by law.

(2) Congress shall authorize the end strength as of the end of each fiscal year for civilian personnel for each component of the Department of Defense. No funds may be appropriated for any fiscal year to or for he use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that compoent for that fiscal year has been authorized by law.

(3)(*A*) The Secretary of Defense shall submit to Congress a written eport, not later than February 15 of each fiscal year, recommending e annual active duty end strength level for each component of the med forces for the next fiscal year and the annual civilian personnel d strength level for each component of the Department of Defense r the next fiscal year, and shall include in that report justification for e strength levels recommended and an explanation of the relationp between the personnel strength levels recommended for that fiscal r and the national security policies of the United States in effect at time. The justification and explanation shall specify in detail for military forces, including each land force division, carrier and other jor combatant vessel, air wing, and other comparable unit, the—

[(A)](*i*) unit mission and capability;

[(B)](*ii*) strategy which the unit supports; and

[(C)](*iii*) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

[It shall also include] (*B*) *The Secretary of Defense shall also include in the report required under subparagraph* (*A*) *of this paragraph* a detailed discussion of (i) the manpower required for support and overhead functions within the armed forces and the Department of Defense, (ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies, and (iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions. Such report shall also identify, define and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

(*C*) *The Secretary of Defense shall also include in the report required under subparagraph* (*A*) *of this paragraph the following information with respect to each military department:*

(*i*) *the estimated requirements in members on active duty during the next fiscal year;*

(*ii*) *the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and*

(*iii*) *an analysis of the distribution by grade of commissioned officers on active duty at the time the report is prepared.*

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CHAPTER 39.—ACTIVE DUTY

Sec.

671. Members not to be assigned outside United States before completing training.
671a. Members: service extension during war.
671b. Members: service extension when Congress is not in session.
672. Reserve components generally.
673. Ready Reserve.
673a. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
673b. Selected Reserve; order to active duty other than during war or national emergency.
674. Standby Reserve.
675. Retired Reserve.
676. Retention after becoming qualified for retired pay.
677. Reserve officers: use of in expansion of armed forces.
678. Reserves: for organizing, administering, etc., reserve components.
679. Active duty agreements.
680. Active duty agreements: release from duty.
681. Reserves: release from active duty.
682. Reserves: kinds of duty.
683. Reserves: duty with or without pay.
684. Payment of certain Reserves while on duty.
685. Reserves: theological students; limitations.

[686. Reports to Congress.]
687. Non-Regulars: readjustment payment upon involuntary release from active duty.

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[§ 686. Reports to Congress

The Secretary of each military department shall report to the Committees on Armed Services of the Senate and the House of Representatives, not later than April 30 of each year—

[(1) the estimated requirements of the armed forces under the jurisdiction of his department in members on active duty during the next fiscal year;

[(2) the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and

[(3) an analysis of the distribution by grade of commissioned officers on active duty at that time.]

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CHAPTER 47.—UNIFORM CODE OF MILITARY JUSTICE

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Subchapter I.—General Provisions

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§802. Art. 2. Persons subject to this chapter

(*a*) The following persons are subject to this chapter:

(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

(2) Cadets, aviation cadets, and midshipmen.

(3) Members of a reserve component while they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this chapter.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

(8) Members of the Environmental Science Services Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) In time of war, persons serving with or accompanying an armed force in the field.

(11) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed forces outside the United States and outside the following: the Canal Zone, Puerto Rico, Guam, and the Virgin Islands.

(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside the United States and outside the following: the Canal Zone. Puerto Rico, Guam, and the Virgin Islands.

(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) of this section, and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

(c) Notwithstanding any other provision of law, a person serving with an armed force who—

(1) submitted voluntarily to military authority;

(2) met the mental competency and minimum age qualifications of sections 504 and 505 of this title at the time of voluntary submission to military authority;

(3) received military pay or allowances; and

(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.

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Subchapter VII. —Trial Procedure

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§ 836. Art. 36. President may prescribe rules

(a) [The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals] *Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry,* may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter.

(b) All rules and regulations made under this article shall be uniform insofar as practicable and shall be reported to Congress.

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Subtitle B—Army

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CHAPTER 331.—STRENGTH

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§ 3218. Reserves: strength in grade; general officers in active status

The authorized strength of the Army in reserve general officers in an active status, exclusive of those serving as adjutants general or assistant adjutants general of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, [and those serving in the National Guard Bureau] *those serving in the National Guard Bureau, and those chargeable under section 3202 of this title*, is 207.

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Subtitle C—Navy and Marine Corps

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CHAPTER 533.—DISTRIBUTION IN GRADE

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§ 5457. Naval Reserve: officers in an active status in permanent grades above chief warrant officer, W-4

(a) The authorized strength of the Naval Reserve in officers in an active status in the grade of rear [admiral] *admiral, exclusive of those chargeable under section 5442 of this title*, is 48, distributed among the line and the staff corps as follows:

(1) Line—28.
(2) Medical Corps—7.
(3) Supply Corps—7.
(4) Chaplain Corps—1.
(5) Civil Engineer Corps—2.
(6) Judge Advocate General's Corps—1.
(7) Dental Corps—2.

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§ 5458. Marine Corps Reserve: officers in an active status in permanent grades above chief warrant officer, W-4

(a) The authorized strength of the Marine Corps Reserve in officers in an active status in the grades of brigadier general and major general [combined] *combined, exclusive of those chargeable under section 5443 of this title*, is 10.

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Subtitle D—Air Force

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CHAPTER 831. STRENGTH

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§ 8218. Reserves: strength in grade; general officers in an active status

The authorized strength of the Air Force in reserve general officers in an active status, exclusive of those serving as adjutants general or assistant adjutants general of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia [and those serving in the National Guard Bureau] *those serving in the National Guard Bureau, and those chargeable under section 8202 of this title*, is 157.

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TITLE 37, UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

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CHAPTER 5.—SPECIAL AND INCENTIVE PAYS

Sec.
301. Incentive pay: hazardous duty.
302. Special pay: physicians and dentists.
303. Special pay: veterinarians.
304. Special pay: diving duty.
305. Special pay: while on sea duty or duty at certain places.
306. Special pay: officers holding positions of unusual responsibility and of critical nature.
307. Special pay: proficiency pay for enlisted numbers.
308. Special pay: reenlistment bonus.
[309. Reserves; members of National Guard: additional pay for performance of administrative duty.]
310. Special pay: duty subject to hostile fire.
311. Special pay: continuation pay for physicians and dentists who extend their service on active duty.

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[§ 309. Reserves; members of National Guard: additional pay for performance of administrative duty

[(a) Under regulations prescribed by the Secretary concerned, an officer of the National Guard or of a reserve component of a uniformed service who commands an organization, and has administrative functions connected with it, is entitled to not more than $240 a year for the faithful performance of those functions, in addition to pay to which he is entitled under section 206 of this title.

[(b) For the purpose of determining the amounts to be paid to officers performing the functions described in subsection (a) of this section, the Secretary concerned may, from time to time, divide those officers into classes and fix the amount payable to officers in each class.

[(c) This section does not apply to an officer who is entitled to basic pay under section 204 of this title.]

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CHAPTER 7.—ALLOWANCES

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§ 406. Travel and transportation allowances: dependents; baggage and household effects

(a) [A] *Except as provided in subsection (i) of this section*, a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed, but not more than the rate authorized under section 404(d) of this title.

* * * * * * *

(h) [In] *Except as provided in subsection (i) of this section, in* the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects—

(1) authorize the movement of the member's dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

(2) authorize the transportation of one motor vehicle owned by the member and for his or his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10.

If the member's baggage and household effects are in nontemporary storage under subsection (d) of this section, the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b) of this section. For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who became 21 years of age while the member was serving at that station shall be considered as a dependent of the member.

(i) A member of a uniformed service in the pay grade of E–1, E–2, E–3, or E–4 (2 years or less service) is not entitled—

(1) to travel and transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind for any travel and transportation of such dependents to or from any place outside the United States;

(2) to the movement of such member's household effects to or from any place outside the United States; or

(3) to the transportation of a motor vehicle of such member to or from any place outside the United States.

* * * * * * *

The Strategic and Critical Materials Stockpiling Act

(60 Stat. 596; 50 U.S.C. 98–98h–1)

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SEC. 11. Notwithstanding any other provision of law, on and after e date of enactment of this section or on and after June 30, 1979, *whichever is later, the President shall not prohibit the importation from Zimbabwe-Rhodesia into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, nor shall he prohibit trade in lawful goods between Zimbabwe-Rhodesia and the United States.*

Federal Civil Defense Act of 1950

(64 Stat. 1245; 50 U.S.C. App. 2251–2297)

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TITLE II—POWERS AND DUTIES

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SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operations centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.

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TITLE IV—GENERAL PROVISIONS

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Sec. 408. Appropriations and transfers of funds

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act in the fiscal year ending September 30, 1977. No funds may be appropriated for any fiscal year beginning after September 30, 1977, for carrying out the purpose of this Act, unless such funds have been authorized for such purpose by legislation enacted after the date of enactment of the Department of Defense Appropriations Authorization Act, 1977. Funds made available for the purposes of this Act may be allocated or transferred for any of the purposes of this Act, with the approval of the Bureau of the Budget, to any agency or Government corporation designated to assist in carrying out this Act: *Provided*, That each such allocation or transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer: *Provided further*, That appropriations for the payment of travel and per diem expenses for students under section 201(e) shall not exceed $300,000 per annum; appropriations for expenditures under the fourth proviso of section 201(h) (donation of radiological instruments, et cetera) shall not exceed $35,000,000 per annum; appropriations for contribution to the States for personal equipment for State and local workers, under section 201(i) shall not exceed $2,000,000 per annum; [appropriations for contributions to the States for personnel and administrative expenses under section 205 shall not exceed $35,000,000 per annum.] *appropriations for contributions to the States for personnel and administrative expenses under section 205 shall not exceed $40,000,000 per annum.*

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Department of Defense Appropriation Authorization Act, 1976

(89 Stat. 531; 10 U.S.C. 139 note)

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Sec. 811. **[**(a) Beginning with the quarter ending December 31, 1975, the Secretary of Defense shall submit to the Congress within 30 days after the end of each quarter of each fiscal year, written selected acquisition reports for those major defense systems which are estimated to require the total cumulative financing for research, development, test, and evaluation in excess of $50,000,000 or a cumulative production investment in excess of $200,000,000. If the reports received are preliminary then final reports are to be submitted to the Congress within 45 days after the end of each quarter.**]**

(a) Beginning with the quarter ending December 31, 1979, the Sec-
retary of Defense shall submit quarterly to the Congress written se-
lected acquisition reports for those major defense systems which are
estimated to require a total cumulative financing for research, develop-
ment, test, and evaluation in excess of $75,000,000 or a cumulative pro-
duction investment in excess of $300,000,000. The report for the quarter
ending December 31 of any year shall be submitted within 20 days
fter the President transmits the Budget to Congress for the ensuing
iscal year; the quarterly reports for the other three quarters of any
ear shall be submitted within 30 days after the end of each fiscal
ear quarter. If one or more preliminary reports are submitted for
ny quarter of any year, the final report for such quarter shall be sub-
itted to Congress within 15 days after the submission of the last pre-
minary report for such quarter.

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ADDITIONAL VIEWS OF MR. LEVIN

The perpetual tensions between allocating sufficient resources to meet the Nation's human needs while also spending enough to provide for a strong national defense have been particularly acute this year.

Uncertain domestic and international economic conditions, and the continuing political and military competition between the United States and the Soviet Union, have only added to the dilemmas the Congress has faced in making the difficult trade-offs inherent in shaping a Federal budget for the 1980 fiscal year.

I believe the Senate Committee on Armed Services was not unmindful of these tensions and dilemmas as it drafted S. 428, the Department of Defense Authorization for fiscal year 1980. However, I do not believe the committee succeeded, as well as it could have, in producing legislation which fully recognizes that all parts of the Federal budget, including defense spending, must be held within reasonable limits.

In drafting this legislation, our committee approved several procurement and research and development (R. & D.) actions which have inadequate military justification, rejected opportunities to make significant savings in defense spending without harming our military capabilities, and recommended a major reduction in our war mobilization capacity in the critical armored warfare area.

The committee approved bill language on the MX missile which I am concerned fails to recognize adequately the future arms control implications of our ICBM modernization program.

The committee also voted, prematurely in my judgment, to remove trade sanctions against Rhodesia. Whether the recent elections in that African nation were a free and fair exercise of the will of the majority of black and white Rhodesians remains uncertain.

Until that doubt is removed—and the Senate already established, last year, Presidential measures to do this—legislative action to lift sanctions is inappropriate and unwarranted. At best, such action is premature. At worst, it damages our international reputation and symbolically aids a regime whose legitimacy is in doubt, thus possibly augmenting the already real suffering of all Rhodesians.

On the other hand, the committee deserves credit for authorizing funds to begin the effort to build a more survivable Navy, for restructuring a Navy ship conversion program to yield large savings in fiscal year 1980 and even greater savings in the future, and for approving research into an alternative for the problem-plagued engine of our new main battle tank.

These actions promise, for the most part, substantial savings of resources in the future, while at the same time, maintenance of American military strength which still is second to none in the world.

The Shipbuilding Program

The committee's approval of $49 million to convert an amphibious assault ship to a light aircraft carrier and of $25 million for research into a new generation of smaller, more survivable air-capable platforms is a positive step to re-orient our Navy away from large-deck aircraft carriers after the year 2000.

This decision holds out the prospect of enabling our future Navy, for which we must plan now due to the long lead times involved in developing naval systems, to disperse its offensive air power and better survive in high threat environments.

By restructuring the DDG–2 class destroyer modernization program, the committee provides for essentially the same improved anti-air warfare (AAW) capability but at substantially less cost. This program change, which I heartily supported, saves $278.8 million in fiscal year 1980 and could save taxpayers almost $750 million during the life of this 10 ship program.

Unfortunately, I must disagree with the committee's refusal to save another $370.2 million in fiscal year 1980. The committee rejected my amendment to delete the Aegis AAW guided missile destroyer, DDG–47, in the fiscal year 1980 budget request and introduce the same capability into the fleet sooner by placing the Aegis system on one of the four additional destroyers originally intended for Iran. These four DDG–993's were authorized by the Senate in the fiscal 1979 supplemental defense budget.

Such a conversion would have permitted the Navy to meet its most urgent needs while at the same time saving substantial taxpayer dollars. Diverting $450 million of the $820.2 million sought in fiscal year 1980 for the DDG–47 Aegis platform to pay for the Aegis missile/computer system and conversion costs would have yielded the $370.2 million savings.

The Secretary of the Navy, W. Graham Claytor, Jr. testified to our committee that the greatest threat to our fleet, today and in the future, is expected to be cruise missile-carrying Soviet bombers and cruise missile-carrying submarines. He stated that Aegis is our best AAW system and the only one considered fully capable of meeting this threat. There is general agreement within the defense community that we should move as fast as possible to deploy Aegis systems into the fleet.

Secretary Claytor testified to our committee on March 7, 1979, that conversion of the formerly-Iranian DDG–993 to an Aegis ship was not only possible, but that it would yield both cost savings and, even with 30 months of conversion work, an earlier Aegis ship delivery date.

In that testimony, Secretary Claytor stated the Navy was "exremely interested" in the conversion possibility and that while there as "some" risk to such a project, the Navy was "satisfied that we uld do it." He concluded that the effects of the conversion stretchout n the shipyard's workload "would not be too serious," and he went far as to say that, if funds had been available in the fiscal year 1979 pplemental, he would have recommended the conversion.

Here are the Secretary's precise words:

> A question has been raised how about putting the Aegis system, which we are putting in the DDG-47 as a lead ship, in these ships. We looked into that, too, because we are extremely interested in that. I think Aegis is probably the most important seagoing air defense system that we have got under construction or even under consideration. We could in fact put Aegis in one of these ships, the last one of the ships. It would involve some risk because we would necessarily be having to compress the schedule somewhat more than we like to do, but we are satisfied that we could do it and we think the cost would be about $450 million for that ship.
>
> It would involve a 30-month stretchout in its schedule but it would give us another Aegis ship sooner than we otherwise would get it. It is possible.

Also:

> The stretchout so far as the workload in the shipyard is concerned, which would concern us because of the money, would not be too serious because the stretchout would handle a dip and a peak in such a way as to level the shipyard off during that period in a reasonably satisfactory way—so 30 months' delay and $450 million.
>
> Chairman STENNIS. And you do recommend it?
>
> Secretary CLAYTOR. Well, I would recommend it if I had the money, yes. We would recommend it except for fiscal constraints, as we so often say here.

It was only during the last moments of our committee's deliberations on my amendment that Secretary Claytor contradicted himself to declare that "there were substantial risks in doing so," and that the conversion would mean "an unnecessary perturbation of present workload at the yard."

The Navy informed me, and I so informed the committee, that actual construction on the fourth Iranian DDG-993 would halt for only 6 months to allow delivery of the Aegis system to catch up to the hull construction work, and that such a closing-off of the hull would not negatively affect other construction at the shipyard.

I am convinced that the benefits of obtaining an Aegis ship more quickly and at a reduced price outweighed the alleged risks of such a conversion. The opportunity to obtain the same defense capabilities at a $370.2 million savings in fiscal year 1980 should not have been rejected in such a tight budget year.

ARMORED FORCES READINESS

The committee, in my view, wisely authorized $14.2 million to continue research and development into an alternate diesel engine for the new XM-1 main battle tank, the centerpice of the Army's armored forces modernization program. The XM-1's present gas turbine engine has demonstrated disturbing problems during its development, and the committee concurred with the Department of Defense that a back-up diesel engine R. & D. program was a prudent "insurance policy" against the risks these persistent problems might defy acceptable solutions.

It should be noted that this $14.2 million is not an increase to the Army's budget but is a transfer from the XM-1 account.

Unfortunately, while at the same time it recognized that a key component of the XM-1 program is troubled, the committee refused to purchase enough "insurance" to hedge against the possibilities that these problems might continue.

Against the strong recommendation of the Defense Department and the civilian and military leaders of the Army, the committee decided to prematurely terminate operations at the Nation's only proven main battle tank production facility. It did this by refusing the DoD/Army budget request for $216.8 million in fiscal year 1980 to buy 251 M60A3 tanks, and by rejecting my compromise amendment to restore at least enough of these funds to continue manufacturing until the XM-1 line is considered ready to replace the M60A3 production base.

The M60A3 is our latest main battle tank available for deployment now, and it will remain so until the XM-1 enters the inventory in large numbers some years in the future. The M60A3 has essentially the same fire control system as the XM-1, since both tanks have a laser range finder, solid state computers and thermal sights for improved hit probabilities.

In part because production of an all-XM-1 tank force would be prohibitively expensive, the Army intends to deploy 3,676 high technology M60A3s and 7,058 XM-1s in the area of our greatest national security interests—Western Europe.

The administration request for 251 new M60A3 tanks in fiscal year 1980 would maintain production through *November*, 1981. The committee deleted the entire fiscal year 1980 purchase of the M60A3's (providing only for conversion of older tanks), which would result in shutdown of the production base in *March*, 1981.

The Army has written that it "has established *August*, 1981 as the XM-1 (line) production validation date; this will represent production of 30 tanks per month for six consecutive months at the Lima, Ohio plant (italic added)."

It is this "30 per month for six months" criterion which is important, since the Army believes this rate for this period is necessary o evaluate whether the new XM-1 base is ready and to allow a suffi- ient "shakedown" period for solving any problems associated with eginning a new production line. Once the new line produces 30 tanks onthly for six months, the Army will consider it "proven", and capa- le of reacting to wartime or emergency requirements.

The Army has stated that "there is a strategic necessity for the U.S. possess a proven tank production line at all times," and that "we ve always advocated the necessity to maintain it (the M60A3 line) a warm status until such time as the first XM-1 line has proven pable of producing tanks in full-rate production."

I would point out that maintaining a "warm" production base has en a concern of this committee in the past, and it has demonstrated s in both fiscal 1978 and 1979 by supporting continuation of the

M60A3 new production line until the XM–1 manufacturing capabil ties are ready. Specific statements in the committee reports on its D partment of Defense authorization recommendations for these fisca years attest to this.

Elimination of the fiscal year 1980 purchase of the M60A3's woul force a shutdown of the country's only proven tank production bas at least five (5) months before the new XM–1 production line migh be ready to take its place (August, 1981), assuming no further problem in development of the troubled gas turbine engine for the XM–1.

In addition to ordering the Army to plan for an "alternate tank engine" in recognition of the possible, continuing problems, Department of Defense just this month negotiated contract options with the XM–1 producer to permit as much as a one year delay in reaching the 30 tank per month rate.

If engine development problems require delaying the buildup on the XM–1 line, the committee's action to delete the fiscal year 1980 M60A3 purchase could mean the Nation could be without a proven tank production base for emergencies or mobilization for as long as 17 months.

Even assuming no further delays caused by engine problems, elimination of the fiscal year 1980 M60A3 procurement will close the Nation's only validated tank production line after the XM–1 line has produced 30 tanks for only one month. Simple "overlap" of the two production lines, which the committee allows, does not afford the XM–1 line enough time to prove itself.

Early termination of the M60A3 line also risks the loss of many experienced workers whose skills in producing main battle tanks are required to support the XM–1 program. "Many of these unique skills will be lost as they (the workers) dissipate into the general workforce," the Army has written. "The present Army plan allows for a smooth and orderly transition of this vital asset from M60A3 to XM–1 with minimum employment impact," the service concluded. This plan includes the fiscal year 1980 M60A3's deleted by the committee.

(It further should be noted that while an August, 1981, date permits the XM–1 assembly line to prove itself, two major sub-contractors for the tank will not establish their capability to meet emergency or wartime requirements until some 11 months later. These sub-contractors—for the engine and the transmission—can support the basic 30 per month assembly level before their validation point, however.)

In the face of an improving Soviet tank threat, the Army's M60A3 new production program also was designed to help meet its near-term readiness problem reflected in a shortage of the highest technology tanks available. The Army intends to deploy 1,972 new M60A3's—all in Europe—but at the end for fiscal year 1978, only 19 were available. Only 479 are expected to be available by the end of fiscal year 1979.

Unfortunately, the committee's answer to this near-term problem is a far-term response—the conversion of an additional 251 M60A1 tanks to the M60A3 configuration to replace the 251 new tanks it deletes for fiscal year 1980. It is a deficient response.

Simply converting M60A1 tanks to M60A3 models "would not meet the objective of keeping our production line open," according to Undersecretary of Defense (Research and Engineering) William J. Perry. "I would be opposed to that (conversions) for that reason," the Pentagon's chief scientist testified.

An additional 251 conversions in fiscal year 1980 would not help the Army meet its tank inventory requirements, since they would be substituting for, not adding to, existing force levels.

As important, these conversions would only delay the solution to the present near-term readiness problem—the tank shortage—since they could not be accomplished, under the best of conditions, until April, 1982, which is after the new production M60A3s sought in fiscal year 1980 would have been delivered.

Under more likely conditions, the shift to additional conversions promises a much more significant delay in modernizing our tank forces in Europe, since enough M60A1 tanks might not be available for four fiscal years (until fiscal year 1984) to convert to A3s unless the Army "robs" its war reserves, POMCUS (prepositioned equipment in Europe) or overhaul replacement stocks.

Due to the increasing Soviet threat and a better appreciation of the high loss-rates in modern armored warfare, our defense planners have expressed concern in the past about the need to increase our war reserves and POMCUS and to improve our materiel readiness conditions. Diverting M60A1s from these purposes would be a worrisome reversal in our efforts to make improvements in these important areas.

Thus, deletion of the fiscal year 1980 M60A3 buy and substitution of more conversions would delay the Army filling out its force structure with the most modern tanks available.

It would prevent deploying enough M60A3s into the field as soon as possible, hinder increasing our critical war reserve and POMCUS stocks, and possibly even force postponement of needed overhauls of other tanks in the future.

Such results concern me, especially when we supposedly are assigning a high priority to maintaining the strength of our conventional forces.

Army Secretary Clifford L. Alexander, Jr., transmitted his own concerns to the committee before its vote on the M60A3 program, and his letter is convincing testimony to the need to continue the M60A3 production line. I shall include the Secretary's letter at this point for the benefit of my colleagues:

SECRETARY OF THE ARMY,
Washington, D.C., May 23, 1979.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I want to state my strong support for the Army's fiscal year 1980 budget request of $216.8 million for 251 M60A3 tanks. During recent years, with the support of the Congress, the Army has made the improvement of the readiness of our European stationed orces its prime effort. The tank force is the most important part of he total firepower available to those forces.

Accordingly, the Army developed a program which brings together he many facets of ongoing tank conversions, new production, and XM–1 development. Related decisions such as phasing out M60 produc-on and initiating XM–1 production were made in the context of over-l tank force readiness.

The objective of our tank program is to field, as economically as ossible, the best available tank force in adequate numbers as quickly as possible. It is designed to address both the near-term threat to NATO as well as our long term needs. Our Special Tank Task Force Study indicated this initiative could best be accomplished by building 7,058 XM–1 tanks, 1,972 M60A3 tanks, and converting 1,704 M60A1 tanks to the M60A3 configuration.

It is recognized that the goal of an all XM–1 fleet is long term, and that the XM–1 will not be introduced into the fleet in significant numbers until July 1982. A need exists, however, to provide a near-term, high-technology capability in Europe to reduce the risk imposed by the current threat. The M60A3 tank satisfies that requirement and its operational objective of 3,676 tanks has been developed to provide the minimum required to cover the near-term risk until the XM–1 is fielded in adequate numbers.

Additionally, these production tanks are all scheduled for European deployment and represent the quickest way to fill our forward deployed forces with a quality tank. To achieve the entire operational objective, we have a well planned conversion program which begin to upgrade older M60A1 tanks to the M60A3 configuration in fiscal year 1980. This conversion program, although providing quality assets, lags production by about two years and does not satisfy near-term requirements; nor does conversion provide dearly needed tank assets for satisfaction of our Acquisition Objective.

In summary, the Army has a valid requirement for both the fiscal year 1980 M60A3 production program and the conversion program to ensure a viable tank production base and near-term readiness. I urge favorable consideration of our request.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

INADEQUATELY JUSTIFIED AUTHORIZATIONS

The committee took three steps, all in the tactical aircraft area, for which adequate military justification was not demonstrated. These committee increases to the Department of Defense budget request cost the taxpayers $419 million.

These increases could have been forgone without reducing our military capabilities. In addition, neither the Defense Department nor the services involved requested these authorizations from the Congress for fiscal year 1980.

The actions which I question are the addition of $180 million for research and development for the AV–8B vertical/short take-off and landing (V/STOL) attack aircraft for the Marine Corps, of $149 million to purchase 12 A–7K light attack trainer aircraft for the Air National Guard and of $90 million to buy six A–6E medium attack aircraft for the Navy.

AV–8B

Department of Defense wants to terminate the AV–8B program for the Marine Corps because paying for its eventual 322 aircraft will deplete the Navy's R. & D. and procurement budgets at a time when resources are so restricted that the Navy cannot even buy enough aircraft now to support its 12-carrier fleet.

Instead, Department of Defense wants to buy 322 A–18 attack aircraft to perform the same close air support mission for the Marines.

but take advantage of lower overall program costs since the A–18 is a variant of the F–18 fighter being purchased in large numbers for the Navy.

Commitment to the AV–8B would require an additional expenditure of $1.47 billion during the next five fiscal years, as compared with the all A–18 force alternative, and Navy Secretary Claytor has testified that this expenditure will increase the service's tactical aircraft shortfall by 100 planes.

The critical problem is how we meet inventory objectives and other vital needs during the next five years, and procurement and commitment to AV–8B will no doubt make these problems more severe.

Secretary Brown has indicated that the measurable advantages of the AV–8B V/STOL over a conventional aircraft, such as the dual-mission F/A–18, appear minimal. In fact, the F–18 would provide better overall performance than the AV–8B, including increased payload, better speed, range and loiter capabilities. Thus it would not reduce military capabilities if A–18s are substituted for AV–8Bs.

I agree that we will have to disperse our aircraft assets aboard nore and smaller naval platforms in the future, and that V/STOL air- raft will be required to do this. That is why I supported the ship- uilding program modification which results in a light carrier and nore research on light carrier options, and why I supported continued search in this bill on a V/STOL aircraft for the Navy.

But our present fleet of 12, large-deck aircraft carriers will remain erational until at least the year 2000, and we must be able to buy ough aircraft to deploy aboard them. We will find it increasingly fficult to afford these aircraft if we divert funding to an AV–8B ogram for the Marine Corps.

Also, it is generally agreed that our future Navy will require a 'STOL aircraft with much greater capabilities than the AV–8B. Re- rch on such an advanced V/STOL option should continue, so these nes will be ready when we are able to deploy smaller carriers in suf- ent numbers. But commitment now to a less capable V/STOL is mature.

This authorization bill wisely retains our V/STOL options for the ure, and I support that. But it should not sacrifice the aircraft we d to satisfy more near-term requirements. We can maintain our STOL options without the addition of the $180 million for the AV– program and avoid a more severe shortage of needed carrier air- t.

E

here were no new procurements of A–6E aircraft requested in the l year 1980 budget, and there are no new procurements of A–6E ested in the out year five year defense plan.

he committee last year authorized 12 new A–6E aircraft but re- d the long lead funding for the A–6E aircraft from the budget recommended that the A–6E production line be shut down after l year 1979.

e Navy testified last year that they had an excess of A–6E air- even if the squadron size were increased to 12 aircraft per squad- rom the presently equipped 10 aircraft per squadron.

The Navy and Marine Corps has over 340 A–6E aircraft funded to meet an authorized active inventory requirement of 256 aircraft. Some of these A–6E aircraft are in storage.

Additional expenditures for A–6Es are another unnecessary diversion of scarce resources away from more critical military, or non-defense, needs.

A–7K

The Air Force stated in testimony that it did not have a requirement for additional A–7K aircraft.

There also are indications that conversion of earlier models of existing A–7s is possible to provide the Air National Guard with two-seat trainers at less cost than producing new aircraft.

MX MISSILE PROGRAM

Although the committee rejected even more specific language mandating the detailed characteristics of a future MX missile and basing mode, the extensive language it did adopt does not adequately address the arms control implications of the various options being considered to modernize our ICBM forces.

The arms control ramifications of these options should be considered to be as important as their military effectiveness and cost characteristics. I am concerned that the more this committee pushes for a system only on the basis of military effectiveness and cost, the more likely it is this country will develop and deploy an ICBM which is dangerously destabilizing to the strategic nuclear balance.

There are some ICBM modernization options which are militarily and cost effective and which also contribute to arms control. Others meet the first two criteria but so fail by the last measure that they could lead to a futile, and foolish escalation of the arms competition between ourselves and the Soviets.

By the language in this bill, some Members of the committee clearly wish to drive the administration to select the most deceptive land-basing mode for the MX, regardless of whether it is compatible with reasonable and prudent arms control policies. Since arms control and military capabilities are complementary, not mutually exclusive, variables in any national security equation, I must disagree with this approach.

As I expressed in my "Additional Views" to our committee's report accompanying the fiscal year 1979 Department of Defense Supplemental Authorization Act, I have serious reservations about the utility and wisdom of developing the larger MX and about some of the basing mode options being considered.

Development of any missile/basing combination which is capable of a disarming first strike against Soviet missiles could undermine the strategic nuclear balance which supports deterrence. In a crisis, one nation, fearing that its missiles could be destroyed on the ground by the other nation's ICBM's, might be prompted to strike first itself. Thus the threshold to nuclear war might be lowered, and we would all live in a much more dangerous world.

In an effort to encourage a timely decision about ICBM force modernization, the committee is applying pressure in the wrong direction.

I agree that the administration should make its decision as soon as possible in this area. I do not agree that the Congress, at this time, should force selection of a particular missile and basing mode—especially one which might create as many problems as it attempts to solve.

The committee's restrictive language on MX runs this risk. For example, if the administration selects a system which is better for arms control, and thus our overall national security, but is not more, only equally, militarily effective and costs more than another, more dangerous system, could it pursue this more desirable system under the committee's bill language? The answer to that question is far from clear.

The consequences of a forced decision on ICBM modernization, should that choice lead to a less stable nuclear environment and upset the balance of mutual deterrence, are sufficiently grave that the committee should resist further attempts to apply this pressure through similar bill language in the future.

Carl Levin.

ADDITIONAL VIEWS OF MR. HUMPHREY

The President's proposed Federal Budget for fiscal year 1980 engendered acute controversy immediately upon its release to the public. As has been the case with budgets since Vietnam, the controversy centered almost exclusively on defense spending; in this case on the fact that the budget called for a three percent increase in defense expenditures while other programs including some social programs were to be cut. Charges were levied that defense is simply commanding too much of the national budget.

In actuality, however, current defense programs actually consume a smaller proportion of our nation's resources than is commonly acknowledged. This becomes quite evident if one looks at the figures for the past decade. The fiscal year 1980 budget allocates $135 billion to defense. Defense outlays for fiscal year 1980 will represent approximately 4.9 percent of our estimated gross national product and 23 percent of total Federal spending. Ten years ago, we were devoting a considerably larger proportion of our resources to the defense sector. In 1969, for example, the United States devoted 9.3 percent of its GNP, and 43.3 percent of Federal outlays to defense. The disparity in these figures is conveniently overlooked by proponents of further defense cuts. This disparity can not be explained away fully by the run down of our involvement in Southeast Asia.

One can argue, in fact, that the $135.5 billion requested for total obligational authority in the defense budget actually provides an increase on only 1.7 not 3 percent in real terms over the fiscal year 1979 estimates. The Carter Administration derives its 3 percent growth statement from its estimate of the dollars expected to be spent on defense in fiscal year 1980. The entire fiscal year 1980 budget, however, is not expended in that year. On the contrary, it is spent over a number of years. For example, only 15 percent of the funds requested in the budget for major items such as ships, tanks, and aircraft will be spent during fiscal year 1980.

S. 428 authorizes $40,086 million in funds for Military Procurement, R. & D. This represents a $37 million decrease from the request of $40,123 million submitted by President Carter for these items. The total budget impact of the bill is $90 million less than the President's requested budget defense.

The fiscal year 1980 defense budget authorization approved by the committee by any criterion, is not extravagant. It barely maintains the status quo in the area of procurement, modernization, research and development. Under the fiscal year 1980 defense budget request submitted by the President, about 60 percent of the proposed budget was earmarked for operations and maintenance of our current forces; that is to preserve the status quo. Approximately 40 percent of the budget will go to procurement. S. 428 insures that even a smaller proportion of the total defense budget will be devoted to procurement.

The Navy will receive a Trident submarine which was deferred last year by administration request and a Kennedy Class carrier. I would have preferred the procurement of a Nimitz Class carrier given the all too real prospect of severe fuel shortages in any likely war scenario. The Navy's surface ship needs are not addressed adequately by the budget authorizations. We need to launch an active and vigorous surface ship building program. In this respect, I am disappointed by the committee's decision to cut 0.4 billion dollars from the administration's already meager $6.2 billion request for ship building. S. 428, moreover, does not adequately meet the Navy's aircraft needs. U.S. Naval capabilities are eroding at a time when it can be confidently argued that naval power is a crucial ingredient of our worldwide military posture.

The budget, as originally proposed by the administration, would have made us worse off by devastating the Naval Reserve in terms of manpower, reserve ship force levels and reserve aircraft. The Naval Reserve serves as a crucial component of our capability to respond quickly and effectively to crisis in Europe. The Naval Reserve, thus, enhances the credibility to our security guarantee to NATO. I wholeheartedly support Admiral Hayward's commitment to a strong Naval Reserve and his pledge to improve training and obtain more modern equipment for Naval reservists so they can more effectively carry out their responsibilities. I also support his argument in favor of the one navy concept. The Naval Reserve is a vital element of the Navy's total fighting posture. The Naval Reserve, as do other service reserves, underpins our strategy of flexible response.

The administration, however, would reduce manpower in the Reserve to 48,000 with corresponding deletions of the Naval Reserve anti-submarine warfare squadrons, the light attack helicopter squadron and air composite squadron. In addition, the administration proposed the retirement of 20 destroyers without any replacements, the possible closing of 101 Naval Reserve Centers and 8 readiness commands. I am pleased that the committee recognized the importance of the Naval Reserve and decided not to accept the President's recommendations and authorized an 87,000 manpower strength for the Reserve. I also support wholeheartedly the committee's feeling that efforts should be taken to avoid the unwarranted early retirement of Reserve ships. It should be noted that 26 Senators, including myself, urged the committee to oppose the administration's plan to cut the Naval Reserve.

On balance, however, the fiscal year 1980 budget authorization approved by the committee does not even begin to address the serious asymmetries which have developed in recent years between the United States and the Soviet Union in military capabilities—nuclear and conventional. A study by the Congressional Research Service has credited he USSR with numerical superiority over the United States in the ollowing areas: ICBM's, SLNB's, SLCM's, air defense, tactical nu- lear missiles, medium bombers, ground personnel, divisions, tanks, rtillery, attack submarines, cruise missile ships, combat boats, aircraft shore mine countermeasure ships, fighter attack aircraft, airlift, sea- ift forces. The Soviet fighting machine is given added punch by the act that the entire Warsaw Pact enjoys the advantages which flow from having commonality of equipment. NATO, has yet to come to grips with its interoperability problem which robs it of much of its full potential war time military effectiveness.

For years the United States took comfort in its qualitative lead, over the USSR. The same CRS study cited earlier, however, notes that the Soviets are quickly closing the qualitative gap. The Soviets, today, enjoy qualitative superiority over the U.S. in: armored personnel carriers, chemical warfare, cold weather warfare, engineer bridging, ICBM "cold launch", ICBM payload, low-level air defense, ship-size versus firepower, and short-range SSM's.

In addition, the Soviet Air Force has been restructured to allow for deep offensive strike capabilities in Western Europe. The Backfire bomber has eroded the tactical air power advantage that the United States and its NATO allies traditionally enjoyed over the Warsaw Pact.

The erosion of our air defense situation has been accompanied by doubts about the viability of our Strategic Air Command—one leg of the United States Strategic Triad. Our chances to upgrade SAC, of course, were killed by the Carter Administration's decision not to produce the B–1 bomber.

We must preserve our qualitative edge over the Soviet Union. Of the entire fiscal year 1980 defense budget, a mere 13.6 percent is allocated to research development, test and evaluation. The bulk of the R. & D. budget will go to the MX and Trident II program. These are worthy programs and I support them. I am disappointed, however, that the President has not made a decision to proceed with the immediate deployment of the MPS basing mode for the MX. Without the MX, our ICBM force will soon find itself vulnerable to a Soviet first strike.

The United States, in almost every respect, is finding its military posture eroding vis a vis that of the Soviets. We can not expect to reverse these trends overnight, but we must begin. We can not allow the Soviets to continue to outspend us year after year in the defense sector. We are just beginning to realize that, as a result, they are making great strides in defense. This is why the fiscal year 1980 budget is so disappointing. In the realm of defense, it is essentially a status quo document.

Gordon J. Humphrey.

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Calendar No. 213

96th Congress } SENATE { Report
1st Session } { No. 96-198

CITY OF ROCKVILLE, MD., DESIGNATED AS AN "ALL AMERICAN CITY"

June 4 (legislative day, May 21), 1979.—Ordered to be printed

Mr. Mathias, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. Con. Res. 20]

The Committee on the Judiciary, to which was referred the concurrent resolution (S. Con. Res. 20), having considered the same, reports favorably thereon without amendment and recommends that the concurrent resolution do pass.

PURPOSE

The purpose of the concurrent resolution is to recognize the city of Rockville, Md. for its achievement in being designated as an "All American City."

STATEMENT

This resolution honors the city of Rockville in Montgomery County, Md., for being named an "All American City" for 1978–1979 by the National Municipal League.

Rockville has been recognized for outstanding achievement in community development through citizen action. Rockville has the unique distinction of being the only city in the Nation to be a four-time winner in the 30-year history of this coveted award. It also received the award in 1954, 1961 and 1976–77.

Robert H. Rawson, president of the National Municipal League in anouncing the award said.

> The award is conferred for the imaginative and vigorous action its citizens have taken to improve their community, thus demonstating an example of effective citizenship to the nation. We believe their effort is even more important today, for it illustrates the potential that responsible action of citizens in their home communities has for rebuilding confidence in our total system.

Rockville was cited by the National Municipal League for its c munity goal-setting process, development of a comprehensive p gram to insure active lives for senior citizens and the creation o wide-ranging community arts program.

Citizens of Rockville completed a community goals process to the direction for Rockville into the year 2000 and beyond. The go and objectives were drafted by a group of 200 citizens. The results w mailed to all households for review and comment, and after pub hearings, the document was adopted by the mayor and council.

The program for senior citizens includes an active sports and exerc program, including large group activities, such as swimming, bowlin hiking, gymnastics classes at senior citizen club meetings and individ alized programs for daily exercises. Another innovative proposal to build grandparent cottages—modular cottages on the lots of exis ing residential units to house elderly parents or grandparents. Th concept is under study by a citizens task force. Preservation Unlimite employs retired senior craftsmen to teach young and disadvantage persons such skills as repointing of bricks and hand tooling neede for preservation of historic homes and buildings.

Rockville's community arts efforts have included a sculpture competition involving citizen participation. Another aspect of this program was the creation of an outdoor art gallery on a fence surrounding a large construction site in the city general business district. Thi project, sponsored by local businesses involved more than 200 area artists. The city also has adopted an art and architecture ordinance requiring that 1 percent of the capital budget for public buildings be devoted to art.

The second largest city in Maryland, Rockville is located 12 miles northhwest of Washington, D.C., in west central Maryland. It is the county seat of Montgomery County. Rockville is a successful mix of yesterday and today. Its historic and architectural value is nationally recognized, with several designations on the National Register of historic places.

COST

No cost would result from enactment of Senate Concurrent Resolution 20.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-199

ORGANIZATION OF FEDERAL VOLUNTEER PROGRAMS IN ACTION

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

together with

MINORITY VIEWS

JUNE 4 (legislative day, MAY 21), 1979.—Ordered to be printed

39-010

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

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96th Congress } SENATE { Report
1st Session } { No. 96–199

ORGANIZATION OF FEDERAL VOLUNTEER PROGRAMS IN ACTION

June 4 (legislative day, May 21), 1979.—Ordered to be printed

Mr. Glenn, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

MINORITY VIEWS

I. Summary and Recommendations

(a) introduction

This report examines the current organization of ACTION in response to the request of the Senate Labor and Human Resources Committee that the Governmental Affairs Committee consider the advisability of transferring some or all of ACTION's programs to other agencies. It is the conclusion of this Committee that none of the programs now in ACTION should be transferred to other agencies.

On April 11, 1979, the Senate Labor and Human Resources Comnittee adopted, in connection with its consideration of the reauthorizaion of ACTION's domestic programs, a resolution requesting the Governmental Affairs Committee "to consider, and to report to the Senate by June 4, 1979, its recommendations as to whether some or all f the programs administered by the ACTION agency should be ransferred and administered elsewhere."[1]

The Governmental Affairs Committee held public hearings on the atter on May 17th. A total of 59 federal, state or local officials, and rivate organizations appeared before the Committee, or submitted iews for the record.

The hearings examined the agency's programs, including the Peace orps, VISTA, and the Older American Programs. It considered the fect of various organizational changes on the agency as a whole, and n its programs. It examined the advantages and disadvantages of nking the Peace Corps Program with the proposed International evelopment Cooperation Agency.

The Committee subsequently met to consider the issue at an open eeting of the Committee May 22, 1979.

The full text of the Resolution and the letter of transmittal from the Labor and Human ources Committee appears in Appendix 1.

At the time the Committee voted 15 to 2[2] to recommend to the full Senate:

(1) That the ACTION agency be kept together as an independent executive branch agency;

(2) That the Peace Corps, as a part of ACTION, should be granted budget and policy autonomy in accordance with the new Executive Order 12137 issued by the President on May 16, 1979.

The Committee believes that a major reorganization, such as the dismantling of ACTION, should not be undertaken unless there are clear and compelling reasons. The Committee feels that, to date at least, no such compelling reasons have been identified to justify reorganization of ACTION. To the contrary, the Committee concludes that retaining the current organizational structure would provide the best opportunity for the volunteer programs to achieve the mission established for them by Congress—the coordination and encouragement of volunteerism in this country.

(B) OVERVIEW OF ACTION

ACTION was established July 1, 1971, under the 1971 Reorganization Plan No. 1. This plan reorganized under a single agency seven Federal volunteer programs, six of which were previously administered among three Federal agencies and one (the Peace Corps) which was a semiautonomous unit within the State Department.

In addition to the Peace Corps, programs transferred to ACTION were the Volunteers-In-Service-To-America (VISTA) and the National Student Volunteer Program, both previously administered by the Office of Economic Opportunity, and the Foster Grandparent and Retired Senior Volunteer Programs, both previously administered by the Administration on Aging of HEW. In accordance with a co-management agreement with the Small Business Administration, ACTION assumed primary, but not total responsibility, for administering the Service Corps of Retired Executives (SCORE), and the Active Corps of Executives (ACE). These programs were returned to the Small Business Administration in 1975. The Domestic Volunteer Service Act of 1973 provided additional authority for new ACTION programs intended to broaden the range of volunteer service opportunities: (1) the University Year for Action Program, (2) the Senior Companion Program, and (3) a program of grants for demonstration projects.

ACTION was established because Congress and the Executive Branch agreed that there should be one single agency in the Government organized around the principle of voluntary action which could help preserve and promote the American tradition of citizens volunteering their time and skills to help others.

The 1971 Presidential proposal submitted to Congress stated that "... reorganization is the first step toward the goal of a system of volunteer service which uses to the fullest advantage the power of all the American people to serve the purpose of the American Nation...." The six goals for ACTION were:[3]

---

[2] Appendix 2 records the vote of the Committee.

[3] See U.S. House Document No. 92–74.

(1) Expansion of the testing and development of innovations in voluntary services;

(2) Bringing together full-time and part-time volunteers and developing new opportunities for part-time volunteer service;

(3) Bringing together programs appealing to younger volunteers and those appealing to older volunteers;

(4) Development of programs combining foreign and domestic service and providing for an exchange of ideas and experience between these efforts:

(5) Broadening the utilization of volunteer abilities beyond categorical programs by allowing volunteer skills to be used in areas where they are not presently used; and

(6) Providing a more effective system of recruitment, training, and placement of full-time volunteers than at present by centralizing administrative and informational functions.

Achievement of these goals were to be supported by operations of the agency along the lines of five principles set forth in the reorganization message:

(1) Encouragement of local initiative;

(2) Assignment of volunteers, where appropriate, to work under other government agencies and private organizations;

(3) Utilization of local part-time volunteers for specific jobs;

(4) Involvement of educational and other organizations to broaden volunteer efforts; and

(5) Emphasis on recruiting and applying the skills of trained craftsmen and professional workers.

Those in favor of the 1971 plan testified before the House Government Operations Committee that creating ACTION would give more visibility to the principle of voluntarism.

They stressed the number, variety, and fragmentation of the volunteer programs as major problems in properly channeling and expanding volunteer resources. The merger outlined in the reorganization plan, they argued, would allow volunteer programs to achieve greater efficiency and effectiveness and give the programs a necessary overall unity and direction which they previously lacked.

John W. Gardner, Chairman of Common Cause, captured the spirit and purpose behind the establishment of ACTION before the Senate Committee on Government Operations on June 1, 1971, in these words:

> Each of the volunteer corps that have been established to date has performed well in its own way. But each has been totally committed to its own pattern of operation and none has been charged with a really imaginative broad-scale exploration and development of the volunteer idea. If the various operations are brought together under one roof they can not only benefit by certain shared services, but the new agency can be charged with aggressive exploration of new patterns of volunteer activities. . . .
>
> A more intellectual issue has been raised by those who argue that a volunteer corps must stay close to its subject matter. I agree, but don't see the need for it to be administered by the same agency that administers subject matter. Does anyone believe that the Peace Corps would have done

better embedded in the State Department or AID? In the long-run I believe that the freshness of the volunteer spirit will be best preserved if all the various corps enjoy some degree of separation from the agency dealing with their subject matter.

ACTION's estimated budget for 1979 is $215 million. Of this $119 million, 55 percent, goes to the domestic programs and $96 million, 45 percent, goes to the Peace Corps.[4] ACTION with a permanent staff of 1979 employees supports around 280,000 full or part-time volunteers. The volunteers provide a wide range of services to people of this country and the world:

Peace Corps

With 6,100 volunteers the Peace Corps is in 63 foreign countries helping the poor provide food, water, shelter and other basic human needs for themselves.

VISTA

With a $25.6 million budget 4,300 VISTA volunteers serve 1.2 million poor people through community organizations to help reduce poverty in the United States and its territories. VISTA volunteers are 69 percent women, 22 percent are minorities and 20 percent are low-income.

Older American Programs

The Foster Grandparents Program enlists the services of 16,680 low income persons age 60 and older to help care for 40,000 handicapped youngsters in institutions, schools and homes.

The Retired Senior Volunteer Program (RSVP) have 250,000 volunteers age 60 and older in 682 community service projects in every state. They provide health and welfare assistance for the elderly and for the physically and mentally handicapped.

Senior Companion Program help the elderly remain self-sufficient by bringing health care and other services into the home through 3300 low income volunteers age 60 or over.

Student Programs

University Year for Action (UYA) authorizes grants to colleges and universities to enable students to serve full time in community projects designed to reduce poverty and earn one year academic credit.

National Student Volunteer Program (NSVP) provides technical assistance through manuals, consultations, and training seminars to high schools, colleges and universities engaging students in volunteer service.

On May 16, 1979, the President issued a new Executive Order superseding the one issued in 1971 when ACTION was first established. Executive Order 12137 leaves the Peace Corps within ACTION, along with all the domestic volunteer programs already in the agency, but it grants the Peace Corps autonomous status within ACTION.[5]

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[4] An overall summary of ACTION's current activities and a description of the yearly budget of ACTION between 1972 and 1980 appears in Appendices 3 and 4.

[5] Appendix 5 contains the new Executive Order and an accompanying memorandum from the President. The appendix also contains a letter from the President to the Chairman of the Senate Foreign Relations Committee on the status of ACTION and the Peace Corps

(c) SUMMARY OF COMMITTEE FINDINGS AND CONCLUSIONS

The Committee recommends that the volunteer programs now in
CTION be retained in ACTION in accordance with the organiza-
ional structure specified in the new Executive Order issued May 16,
979.

The following summarizes the Committee's findings and conclusions.
hese findings and conclusions are described in greater detail in the
emainder of the report.

eace Corps

1. *Association of Peace Corps with ACTION Helps Ensure Con-
nued Emphasis on the Small, Humanitarian Nature of the Volun-
er Program.*—The public largely supports the Peace Corps because
views it primarily as a small, people-to-people program. The small,
manitarian nature of this volunteer program will be best protected
it is linked with ACTION, the only agency in the government which
s the promotion of small, volunteer programs as its chief mission.

2. *The Peace Corps Programs Benefit from Coordination with Do-
estic Programs.*—The Peace Corps shares an important community
interests with the rest of the ACTION programs. The linkage be-
een domestic and international volunteer programs in ACTION
monstrates to Third World countries, better than any other bureau-
atic arrangement, that the Peace Corps is not just another source
aid, but a volunteer agency, working with other volunteer programs
ACTION, to reduce poverty both at home and abroad. The close
ociation of domestic and international programs leads to the shar-
of ideas and experience which strengthens the Peace Corps as
ll as the domestic programs. At the same time, the placement of
Peace Corps in ACTION has not prevented the Peace Corps from
perating with AID and other Federal agencies and international
anizations. The Peace Corps and Aid have now established collab-
tive mechanisms in 29 of the 38 countries where they both conduct
rations. A reorganization is therefore not essential to ensure the
tinuation of this coordination.

. *The New Executive Order Protects Peace Corps Autonomy.*—
Executive Order 12137, issued by the President on May 16, 1979,
ld ensure autonomy for the Peace Corps within ACTION and
trol over the critical functions of budget and policy. Under the new
cutive Order the Peace Corps should have at least as much
nomy as it ever had before it became part of ACTION. After the
cutive Order has been implemented, Congress will be in a better
tion to evaluate whether it achieves its stated purpose. It is inap-
riate, however, to subject the Peace Corps to further reorganiza-
until the success of the new arrangements can be measured.

*A Reorganization Linking the Peace Corps with AID Could Lead
ndue Domination by Other Foreign Policy Agencies.*—The pro-
d new International Development Cooperation Agency will be
nsible for coordinating U.S. foreign assistance programs. AID
be the largest unit within the new agency. Linking the Peace
s to the country's foreign assistance program by placing it as a
utonomous unit within IDCA would make it harder for the Peace
s to keep sufficient distance from the short-term foreign policy

goals of the United States. Yet it is important to preserve this distance in order to ensure continued support for the Peace Corps in this country and in the Third World. The reorganization would raise the possibility that the Peace Corps would be seen abroad as simply another part of our foreign assistance program. The influence the Director of IDCA would have over the Peace Corps, as Chairman of the board governing the program, would mean that over the years, the programs' goals of the Peace Corps might become unduly influenced by the needs of our bilateral assistance programs. The uniqueness of the Peace Corps as an expression of American idealism, and the symbolic importance of its voluntary, people-to-people international development activities would be undermined. In addition, transferring the Peace Corps to IDCA would eliminate the significant advantages in coordination now derived from linking domestic and international volunteer programs in a single agency.

5. The Alternative of Establishing the Peace Corps as a Completely Separate Agency Is Unjustified at This Time.– Alternative organization arrangements which would place the Peace Corps in a completely separate Federal agency, or in a quasi-government foundation, cannot be justified at this time in view of the President's recent Executive Order increasing the Peace Corps' autonomy within ACTION. The new status given the Peace Corps within ACTION should be tried before these other alternatives are considered. This is especially so since such a step would increase the total cost of the support services for the Peace Corps. It also would break the valuable link now achieved through ACTION between the different volunteer programs.

6. The Alternative of Establishing the Peace Corps as a Quasi-Government Foundation Involves Too Great a Separation From U.S. Interests.—It would be unwise to place the Peace Corps in a quasi-government foundation over which the Federal Government would have only marginal influence. It is neither possible nor desirable to completely disassociate in this way the Peace Corps from the overall interests and goals of the U.S. Government abroad.

Domestic Volunteer Programs

7. The Testimony Supports the Retention of Domestic Programs in ACTION.—The overwhelming weight of the testimony received by the Committee from private volunteer groups and others supported the retention of the domestic programs in ACTION.

8. ACTION Gives Priority Attention to Volunteerism.—Witnesses testified that ACTION gives a focus and priority to volunteer efforts that is important if this country is to tap effectively the large potential interest in this country in volunteer work. The dollar value of organized volunteer service in this country has been estimated at over $33.9 billion annually. The effective utilization and encouragement of these potential services could be threatened if the volunteer programs were fragmented among a number of Federal agencies, and no one agency saw the encouragement of volunteers as its chief mission. In addition to recruiting and supporting volunteers, ACTION encourages volunteerism by training volunteer leaders and managers, identifying areas for additional volunteer programs, and acting as a clearinghouse for information to State and local government, private volunteer groups, and individual citizens.

9. *The Small Size of ACTION Agency Helps Make Programs Effective.*—Even if other agencies tried to do the work ACTION now does, ACTION may be able to do this work better than larger agencies because it is more likely to possess the flexibility and accessibility necessary to reach members of the public interested in volunteer work. Public opinion polls have suggested that recruitment of volunteers would drop off if the individual volunteer programs were merged with larger, more bureaucratic agencies.

10. *The Consolidation of Programs in Single Agency Saves Money and Improves Programs.*—The current structure of ACTION makes it possible to bring together in one place a number of related domestic programs. This leads both to better programs, and cost savings to the ublic. The domestic programs in ACTION now share a number of ignificant support services. OMB informed the Committee that a eorganization of the domestic programs would be likely to increase, ather than decrease, the expense of necessary support services. The ommittee also received evidence that there are now significant joint fforts between the programs, such as VISTA and the Older American olunteer Program, which would be significantly harder to achieve f the programs were fragmented among several separate agencies.

11. *ACTION Provides Affective Coordination With Other Agen- es.*—Current experience suggests a reorganization is not necessary ensure coordination between ACTION programs and programs in her agencies. For example, 13 percent of the Retired Senior Volun- er Program projects, 20 percent of the Senior Companion Program ojects and 35 percent of the Foster Grandparent Program projects s sponsored by community action agencies funded by the Community rvices Administration. ACTION's Older American Volunteer Pro- ams and HEW's Administration on Aging cooperate fully.

2. *Reorganizing VISTA Could Undermine the Essential Na- e of the Program.*—Transferring VISTA to the Community Serv- s Administration could distort the nature of the VISTA program causing it to resemble the Community Services Administration's nt programs more than a volunteer program. The nature of the STA and the Community Services Administration programs are erent. The primary focus of the Community Services Administra- is on the delivery of grants or other direct services to poor in- duals, rather than on efforts to encourage individuals to organize their own self-improvement The emphasis in VISTA on helping near-poor, as well as the poor, might diminish. The VISTA volun- might be seen more as simply an additional source of labor to help ement the grant programs administered by the Community Serv- Administration. The relatively small VISTA program could ly become lost in the much larger Community Services inistration.

. *Reorganizing the Older American Programs Could Undermine Essential Nature of this Program.*—Groups representing older teers strongly oppose transferring the Older American programs EW's administration on aging as an "artificial graft" of these ams rather than as part of the solution. Some viewed such a re- ization as consigning the programs to a "generational ghetto" much larger agency which is less likely to give priority to the am. Transferring the program to HEW could threaten the ability of these programs to recruit older Americans to serve as volunteers in the programs.

* * * * * * *

No major reorganizations should be undertaken unless clearly desirable, because it inevitably causes disruptions which reduce program effectiveness for a significant length of time. The Committee concludes that, at this time, it appears that there is much to be lost, and little to be gained, by transferring either the Peace Corps or the domestic volunteer program to other agencies. Even if there were marginal advantages in transferring a single, particular program, such as the Peace Corps, to another agency the effect on ACTION as a whole would argue against such a move. The Committee believes that the original concept and motivation for establishing ACTION is as valid today as it was in 1971. Nothing has happened in the last six years to alter the importance of having within the Federal Government a single, small agency whose primary purpose is to encouraging volunteer efforts. And in order to preserve that concept all the programs now in ACTION should be kept in place.

The Committee wishes to emphasize that this report was prepared solely in response to the request of the Senate Labor and Human Resources Committee, the Committee with jurisdiction over ACTION's domestic programs, that it examine organizational questions relating to the present location of the volunteer programs in ACTION. The report, therefore, focuses only on organizational issues. It does not consider any unrelated questions about ACTION's current management practices or its policies, or the personalities of the present leadership at ACTION.

At the same time, the Committee recognizes that there may be important questions about the management policies of ACTION which do not raise organizational concerns, but which Congress should examine in order to ensure itself that the programs themselves are being administered as effectively as possible.[6] For example, in the course of the hearings and the Committee's discussion of the matter, questions were raised about the possible use of ACTION funds to seek to influence the political process. The Committee felt that concerns raised in this connection were not caused by the current organizational arrangements. On the other hand, the Committee is concerned generally about the issue, and intends to examine the matter

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[6] The general questions about the management policies of ACTION were recently examined by the House Committee on Education and Labor (Report No. 96–164, May 15, 1979). The Chairman of the committee's subcommittee on Select Education, Congressman Paul Simon, described the results of his study in a letter to this committee as follows:

> The House Select Education Subcommittee has held six days of oversight hearings on the ACTION Agency during those six days we have looked at both the problems and success of the Agency. We heard from 55 witnesses, 12 of which appeared at the request of the minority. In spite of charges of "cronyism" and politicization, charges for which more than 34–½ hours of questioning of witnesses produced no substantiating evidence, the most pervasive theme of our hearings has been an overwhelming support for the programs of the ACTION Agency and support for an increase in efforts to develop the potential of volunteerism for our country. The ACTION Agency can provide the necessary leadership and coordination in this area.

But compare the more negative report of the House Appropriations Committee entitled "Policies, Procedures and Practices of ACTION," published in Volume 7 of the Committee's hearings on Labor and HEW, April 1979.

In the Senate the Labor and Human Resources Committee has jurisdiction over the authorization of the domestic programs. The Senate Foreign Relations Committee and further in connection with its consideration of S. 691, a bill which prohibits the use of Federal funds obtained from any agency in the government to lobby State and local legislative bodies.

The remainder of this report examines, in section II, the Peace Corps programs and, in section III, the domestic volunteer program. In each instance the report summarizes the nature of the programs, describes the reason why the Committee now favors retaining the programs in ACTION, and discusses the harmful effect a reorganization might have on the programs.

II. PEACE CORPS

(A) ORIGIN AND NATURE OF THE PEACE CORPS

The Peace Corps is the largest government organization of its kind. The total U.S. involvement in the Peace Corps since 1962 amounts to 1,404,759,000, with over 70,500 American citizens having served as olunteers in a total of 85 Third World Nations. The number of acive volunteers reached a peak of about 13,000 in 1965 before dwinlling and then stabilizing at the current level of about 6,000 volunteers n 63 host countries.[7] Depending on funding availability, volunteer ears could rise by FY 1982 to 7,718. With discussions now underway or Peace Corps' entry into 10 new countries, and exits planned from few better-off countries, the total number of Peace Corps countries ill rise to a minimum of 68. In 20 countries, Peace Corps represents he only form of U.S. government to government cooperation. In ve island nations in the Pacific (Solomons, Tonga, Western Samoa, ilberts and Tuvalu), and seven island nations of Latin American Grenada, St. Vincent, St. Lucia, Dominica, Antigua, Montserrat, nd St. Kitts) Peace Corps is the *only* official U.S. presence.

The Peace Corps grew out of a 1960 campaign pledge by candidate hn Kennedy (which was based on earlier proposals by Senator ubert Humphrey and others) that there should be a special agency the government to help individual Americans show their concern r less privileged people through voluntary service in developing untries. Initially created on a temporary basis soon after the new ministration assumed office,[8] the Peace Corps became a permanent ency after the Peace Corps Act was passed and approved in Sepnber, 1961.[9]

As its enabling legislation shows, the Peace Corps was formed to ve both developmental and inter-personal and humanitarian goals. e 1961 Act said the agency should work with "interested countries" help them meet their needs for trained manpower and help prote better mutual understanding between Americans and people other countries. In 1978, two new provisions were added to the ace Corps Act. One directed the agency to emphasize training proms which help meet the basic needs of people living in the poorest as of its host countries. The second required it to give particular

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ppendices 6, 7, and 8 indicate the operating expenses of the Peace Corps, [illegible]
umber of volunteer [illegible]

attention to programs which help integrate women into developing countries' economies and improve their status and contributions to the national development effort.[10]

The Peace Corps program benefits recipient countries through transfer of technical skills and social values deemed necessary for increased productivity and innovation. It also encourages initiative and self-help. Volunteers generally serve overseas for two years, and unlike some of the domestic ACTION programs, they all work under the supervision of a local government agency on projects requested or approved by the host country government.

In terms of its benefits for the United States, the program works to better relations between the rich and poor countries through interpersonal contacts and mutual understanding between individuals. The Peace Corps also helps U.S. foreign policy by creating a positive international image for the United States, building patterns of friendship which enhance support for the United States in the developing world, and expanding U.S. awareness and understanding of these countries.

Finally, returned Peace Corps volunteers offer a valuable asset to this Nation; they can promote real understanding among nations based on direct, personal experience. In Congress alone one Senator, three Congressmen and over 100 Congressional staff members are currently former Peace Corps Volunteers, with hundreds more occupying significant positions within the Executive Branch, commerce, industry and the media.

From the very beginning it was clear that the new Peace Corps would, in President Kennedy's words, "differ from existing assistance programs" and would represent to Third World nations "a new dimension in the U.S. overseas programs." [11]

That it has done. A 1974 report of the National Academy of Sciences points out that the substantial respect and support for the Peace Corps on the part of host countries is due in large measure to the fact that volunteers present a side of U.S. life quite different from that represented by the official U.S. diplomatic and military establishment, or by U.S. tourists and businessmen.[12]

Historian Arnold Toynbee put it this way:

> Here is a movement whose express purpose is to overcome the disastrous barriers that have hitherto segregated the affluent Western minority of the human race from the majority of their fellow men and women. I believe that, in the Peace Corps, the non-Western majority of mankind is joining to meet a sample of the Western man at this best.

Brent Ashbranner, author of *Moment in History*, one of the most authoritative books to date on the Peace Corps, describes the human qualities of the Peace Corps experience this way:

> Almost everyone who served for a length of time in the Peace Corps build up an intense concern for it . . . an emo-

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[10] Ibid., Sections 2 and 3(g), added by Sections 2 and 3(3) of Public Law 95-4 [H.R. 11877], 92 Stat. 414, approved August 2, 1978.

[11] John F. Kennedy, comments accompanying issuance of Executive Order 10924, the White House, March 1, 1961.

[12] National Academy of Science, *The Peace Corps: Perspectives for the Future*, Washington, D.C., 1974, p. 4.

> tional attachment that I cannot conceive of anyone's ever developing for the Commerce Department, the Bureau of Standards, or the Agency for International Development.[13]

R. Sargent Shriver, the first Peace Corps Director, spoke repeat-
dly in speeches and articles about the power of the "Peace Corps
lea" to change the world, and he said it was America's "point of the
nce" for practicing a "new kind of politics of peace effectively and
n a world scale." Other early leaders spoke often of the Peace Corps'
ey place in "national building" or its role as a "revolutionary force"
elping change social and economic patterns in developing countries.[14]
Appreciation for the Peace Corps today is high. It enjoys high rat-
gs among the American public. The Congress, through the Senate
ppropriations Committee, has hailed Peace Corps' "second spring"
ithin ACTION.[15] Third World hosts have also responded enthusias-
ally. More countries are requesting Peace Corps programs; they
ppreciate the Peace Corps, not within a traditional donor-recipient
lationship, but as part of a volunteer program tackling problems of
velopment and poverty both at home and abroad.

Since its creation in 1961 the organizational arrangements for the
ace Corps have changed several times. The current status of the
ace Corps as autonomous unit within ACTION, however, gives
e Peace Corps at least as much, if not more independence, than it
s enjoyed at any other point in its history.

The 1962 Executive Order effecting the Peace Corps Act assigned
tually all presidential authority in the Act to the Secretary of State,
ng with all funds appropriate for its implementation. The Presi-
t reserved to himself only his power for naming the Peace Corps
ector and Deputy, for designating the agency responsible for pro-
m operations, for making certain basic management decisions, for
orting to Congress, and for prescribing standards to coordinate
ce Corps activities with other U.S. activities abroad.[16] By adminis-
tive order, the Secretary of State then redelegated to the Peace
ps Director virtually all those powers from the Peace Corps Act
egated to him by the President, as well as authority over the ap-
priated funds and certain managerial powers vested in the Secre-
y through other legislation. The Secretary reserved for himself,
ough, authority for setting the Peace Corps Director and Deputy
ector's salaries and negotiating international agreements under
Peace Corps Act. The Secretary also reserved the formal right—
e used in practice—to exercise or take back this delegated authority
ny time.[17] The Secretary later conferred certain additional ad-
istrative or technical functions on the Peace Corps Director as
gress enacted general legislation affecting management of U.S.
ernment agencies.[18]

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ent K. Ashabranner. "A Moment in History: the First Ten Years of the Peace
," Garden City, N.Y.: Doubleday, 1971, p. 2.

d., pp. 162–7.

nate Committee on Appropriations, Subcommittee on Foreign Operations, Foreign
ance and Related Programs, S. Rept. 95–1194, September 15, 1979., p. 114.

ntinuation and Administration of the Peace Corps in the Department of State,
tive Order 11041, August 6, 1962, 27 F.R. 7859.

partment of State Delegation of Authority No. 85–11A of August 20, 1962, 27
874.

partment of State, Delegations of Authority No. 85–11A–1 of October 10, 1963,
. 11512 and No. 85–11A–2 of July 8, 1966, 31 F.R. 10000.

In 1971 the Peace Corps was merged into the newly created ACTION. The formation of ACTION brought a centralization of policy and budgetary authority in ACTION which diminished the role of the Peace Corps Director in managing the international program. The President delegated to the ACTION Director all powers previously delegated to the Secretary of State (and redelegated by the Secretary to the Peace Corps Director), while reserving the same powers for himself as in the previous Executive Order. He also stipulated that the Peace Corps continue negotiating international agreements for its program under the direction of the Secretary of State.[18] Under the new arrangement, the Peace Corps Director became an administrative subordinate to the ACTION Director, who made general policy and controlled the Peace Corps budget. General administrative services, volunteer recruitment activities, and other similar functions were consolidated under a single ACTION umbrella covering both domestic and international operations. The position of Peace Corps Director was effectively abolished between 1973 and 1977, as the administration left the formal office vacant and the Peace Corps was run by an ACTION Associate Director. The Peace Corps budget was submitted to OMB by the ACTION Director along with his proposals for the domestic volunteer programs, and the ACTION submission was reviewed as a whole at OMB by its Labor, Veterans and Education Division. The OMB International Affairs Division no longer examined the Peace Corps budget.

In terms of the management and structure of the Peace Corps, the Carter administration has sought since 1977 to make changes in the way the program is run. The President appointed and the Senate confirmed a new Peace Corps Director to fill the long-standing vacancy in that office. The ACTION Director requested OMB in 1977 to have the Peace Corps budget examined by its International Affairs instead of its Labor Division. (OMB chose to leave the final responsibility for all ACTION submissions with the Labor, Veterans and Education Divisions, but its review of the Peace Corps budget has been exercised since in active consultation with specialists from the International Divison.) ACTION officals, however, maintained control over Peace Corps budget, policy and program questions. The ACTION Director retained all the powers delegated to him by the 1971 Executive Order and none were officially transferred to the Peace Corps director as the Secretary of State had done when the program was in State. Widely reported conflicts between top ACTION and Peace Corps leaders led in 1978 to the resignations of the Peace Corps Director and at least one other high Peace Corps official. This raised new questions as to whether final policy and administrative authority should rest with the Peace Corps or the ACTION top leadership.

On May 16, 1979, the President signed Executive Order 12137 to establish the Peace Corps as an autonomous agency within ACTION. The new Executive Order gives the Peace Corps Director broad authority over the budget, policy, and management of the international volunteer program. It is designed to strengthen the vitality, visibility and independence of the Peace Corps while preserving its position as a joint venture with the domestic volunteer service programs within the framework of ACTION.

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[18] Assigning Additional Functions to the Director of ACTION, Executive Order 116 June 30, 1971, 36 F.R. 12675.

Executive Order 12137 supersedes Executive Order 11603, issued in 1971, which assigned to the ACTION Director the authority to direct the Peace Corps. The new Executive Order delegates directly to the Peace Corps Director virtually all the powers previously delegated to the ACTION Director, including authority over all funds appropriated to implement the Peace Corps Act. It stipulates, however, that the Peace Corps Director shall "consult and coordinate" with the ACTION Director to assure that his functions are carried out consistently with the ACTION Director's functions to coordinate volunteer service programs generally. It also provides that the ACTION Director will be responsible for ACTION functions which jointly serve the domestic ACTION and Peace Corps programs and "for advising the Director of the Peace Corps to ensure that functions delegated under this Order to the Director of the Peace Corps are carried out." Decisions concerning the allocation of support functions are to e made jointly by the Peace Corps and ACTION Directors. The Di- ectors of ACTION and the Peace Corps will agree within 30 days pon a plan implementing the changes required by the order.[20]

Under this new Executive Order, the authorities delegated to the eace Corps Director are substantially identical to those delegated to he Peace Corps Director by the original Executive Order issued in 962. Unlike the original order, however, which delegated the authority rough a Secretary of State who could revoke the authority at any- me, the new Executive Order delegates the authority directly to the eace Corps. The head of ACTION has no authority to revoke the thority.

The Executive Order thus deals directly with recent criticisms er Peace Corps' lack of autonomy within ACTION. The Executive rder confers budget authority directly to the Peace Corps Director. xcept to the extent that it remains subject, as it always has, to the reign policy guidance of the Secretary of State, the Peace Corps rector will be in charge of all operations of the program, including ection of country directors and decisions as to which countries uld be entered or left. The Peace Corps Director will have control er all Peace Corps personnel matters, thereby eliminating past prob- ns in reconciling Peace Corps' and ACTION's differing systems. sponsibility for the review of the Peace Corps budget within OMB l shift from the Veterans and Educational Division to the Interna- nal Affairs Division.

ADVANTAGES OF RETAINING THE PEACE CORPS IN AN AUTONOMOUS STATUS WITHIN ACTION

rom its conception in the first days of the Kennedy Administration re has been a special air of enthusiasm and uniqueness surrounding Peace Corps. The Committee feels that everything possible should

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he Administration says that it is not possible to say in advance of this agreement services the Peace Corps and the rest of ACTION will share jointly. OMB has told ommittee, however, that in reaching this agreement "one primary consideration will ether direct control of a function is necessary to assure that the Peace Corps Director fficient authority and control over Peace Corps support services to ensure the ed ability of Peace Corps to function as an autonomous entity."

be done to place the Peace Corps in an organizational setting that will help promote and protect this special sense of identity. Although the witnesses which appeared before the Committee differed on how best to achieve this goal, there was widespread agreement that the Peace Corps should be organized in a way that preserves its unique identity.

The Committee concludes for the following reasons that preserving the Peace Corps within ACTION, in the autonomous status recently announced by President Carter, is likely to preserve the special role the Peace Corps plays in this country.

This subsection discusses several positive advantages the Peace Corps gains from association with ACTION. Subsection (c) then discusses the significant problems that would arise if the Peace Corps were associated with the foreign assistance agency, the International Development Cooperation Administration, or reorganized in other ways.

1. *The Current Organization of the Peace Corps Protects Public Support of the Program by Emphasizing the Small-Scale Voluntary Nature of the Program.*—The Peace Corps remains a strong, vibrant program with wide support in this country in large part because it is seen as a small-scale, humanitarian, people-to-people program. Public opinion polls have consistently shown strong public interest in the humanitarian assistance offered by Peace Corps volunteers and approval of its village-level projects, aimed at alleviating hunger and malnutrition, disease and illiteracy. The Committee believes that the real and symbolic value of the Peace Corps as a humanitarian, people-to-people program is not to be underestimated. The image of American volunteers living under austere conditions among the people of Third World nations, enduring physical hardship and financial sacrifice, remains an important expression of this Nation's tradition of humanitarian concern and idealism. ACTION is an appropriate place to place the Peace Corps in order to protect and symbolize the special volunteer nature of the program.

The 1974 report of the National Academy of Sciences observes that, "the Peace Corps has won and continues to hold a wide support in Congress and among the American people. During a period of discouragement and disenchantment with foreign aid, bipartisan support of Peace Corps' appropriations remained relatively firm."[21] More recently, the volunteer and humanitarian image of the Peace Corps was reaffirmed by a 1978 Opinion Research poll which said, "Peace Corps ranked second highest behind the Red Cross in terms of national recognition. Eighty-three percent state their strong approval of Peace Corps, with 87 percent agreeing that 'dedication' is the most important value in the Peace Corps, and 44 percent agreeing that as volunteers 'they give as much as they get' from the Peace Corps experience."[22]

According to a 1971 Starch Hooper Research Company poll, "Nearly half of all Americans questioned in the survey said they knew of a current or former Peace Corps Volunteer. Positive feelings toward the Peace Corps cut across all age, race, education, and geographic lines. Rural Americans in particular have a strongly positive attitude about the Peace Corps—due to the accent of Peace Corps on self-reliance, an admired trait in rural America."[23]

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[21] National Academy of Sciences, "The Peace Corps: Perspectives for the future," p. 5

[22] Opinion Research, Inc.: "Preliminary Results of Public Opinion on Foreign Aid," 1978

Americans have grown skeptical of large institutions and bloated bureaucracies. Across the Nation taxpayers are refusing to approve liberal spending. People do respond positively, however, to projects that seem small enough to relate to and concrete enough to effect, the lives of individuals. This "smallness" theme has unique connotations for the Peace Corps' past success and future effectiveness. In fact, amidst largely negative attitudes toward government, the Peace Corps is something of an anomaly. There is probably no other government programs that can be publicly seen as remaining free from the impetus toward bureaucratic expansion and the encrustation of tradition. The Congressionally required, "Five Year Rule," prohibiting appointment of Peace Corps employee for a period of more than five years, further helps the Peace Corps from becoming inflexible and bureau- ratic.[24]

Public appreciation of the Peace Corps as a program that tradi- ionally discourages "bigness" was reflected in an early Los Angeles Times article,

> First, the Peace Corps is not guilty of "thinking big," the curse of the U.S. foreign assistance programs in the past. The Peace Corps "thinks small" and achieves greatly in human terms. Peace Corps volunteers live with the people. They don't racket around in big U.S. cars living it up like convention delegates, as have so many of our mission members before. Dollar for dollar, no U.S. foreign aid program has done more.[25]

Dollar for dollar, the Peace Corps bring an impressive return on xpayer investment. It costs an average of $16,000 per volunteer year. y contrast, according to a 1978 report of the Senate Committee on ppropriations, it costs AID approximately $120,000 per work year erseas, including assignment, lease and maintenance costs for official D residences.[26]

A Roper national awareness and attitude survey in 1970 confirmed t the "Peace Corps was selected as an 'effective aid organization' o or three times more often than all other aid programs or organiza- ns combined."[27]

At times the close association of the domestic and international unteer programs may help improve the effectiveness of both pro- ms in very specific ways. ACTION points to the following mples:

> ACTION's new Office of Voluntary Citizen Participation is promoting voluntary activity at home and in the Third World. Many Third World nations have now established local volunteer programs modelled after VISTA, often as a result of their experience with Peace Corps Volunteers. The Office of Voluntary Citi-

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aniel Storch and Staff: "Peace Corps Attitude and Awareness Study," Mamaroneck, May 19, 1971.

eace Corps Act, Sec. 7(a)(2)(A).

Peace Corps has Struck the Right Note," Los Angeles Times, Apr. 6, 1962.

ouse Committee on Appropriations, Subcommittee on Foreign Operations, Foreign tance, and Related Programs, H. Rept. 95–1250, June 1, 1979, p. 38.

oper Poll, "National Awareness Survey and Attitude Survey Regarding the Peace ," January–February, 1971.

> zen Participation now provides technical assistance to these pr grams and shares projects field tested in this country by VIST The Philippines government has, as an example, received techn cal assistance from one of ACTION's Domestic Regional Dire tors and a total of 19 former VISTA volunteers have aided th development of that government's domestic volunteer progra
>
> Simple solar technologies have been introduced by Peace Corp in Fiji and are being promoted by VISTA volunteers in Ne Mexico who are teaching the poor to construct crop driers an greenhouses. Another example is inland fish culture technique employed by VISTA volunteers serving the Federation of South ern Cooperatives in the Deep South; these same technologies ar being introduced by Peace Corps volunteters in Zaire. Other inventive techniques for windmill and hydropower are similarly shared.

The public's support of the Peace Corps, based on its view of the program as a small, human and unbureaucratic organization, is best preserved and reinforced by its association with a small agency such as ACTION which also is engaged solely in promoting volunteer efforts. The association of the Peace Corps with ACTION helps symbolize to the public the most popular aspects of the Peace Corps program. Since the total budget of ACTION, including the $96 million for the Peace Corps, is only $215 million, association with ACTION helps promote the visibility of the Peace Corps program. There is no danger that the program will become lost in an agency with a much greater total budget. In contrast, AID in 1979 administered a bilateral development assistance budget of $1.5 billion.

2. ACTION Enhances Useful Coordination Between the Domestic and International Voluntary Programs. The Peace Corps shares its unique people-to-people, grassroots approach with VISTA and other domestic programs. It is important for the Peace Corps to continue to be seen abroad, not as an aid donor, but rather as a volunteer partner in a small agency working to ameliorate the conditions of poverty both at home and overseas. The continued association of the Peace Corps with the domestic volunteer programs demonstrates to our Third World partners more than any other bureaucratic arrangement the critical linkages between domestic and international poverty concerns.

Senator Claiborne Pell, in testimony May 17, 1979, before this Committee stated:

> ACTION's very existence is testimony to the importance our Government attached to voluntary solutions to human problems, and the fact that Peace Corps is institutionally linked with VISTA and our very popular Older American programs has the triple advantage of facilitating program collaboration, achieving administrative cost savings, and conveying to Peace Corps' host countries overseas that Peace Corps is not just another donor agency, but rather a part of a larger volunteer agency that grapples with poverty both at home and abroad in a genuine spirit of partnership and reciprocity. ACTION's volunteers work from the same spiritual motivation, stressing the importance of individual

self-help leading to self-reliance. The union of ACTION of domestic and international volunteer programs can be a powerful statement of the Congress' support for the value of voluntary service and the constituencies served by these programs, the young, the elderly, and minorities.

At the same time, the current organization of the Peace Corps enables the Peace Corps to work with AID and other development assistance agencies when that is also appropriate. The Peace Corps and AID have begun, for example, to plan for joint programming, by which the two agencies will strengthen their coordination in the field and the Peace Corps volunteer activities will be coordinated with broader AID-sponsored development programs that fit the volunteer agency's mandate and skills. As of early February 1979, the Peace Corps and AID had established collaborative mechanisms in 29 of the 38 countries where they both conduct operations. In some cases, Peace Corps volunteers provide the applications and field participation needed to make AID development programs workable at the local level. These arrangements provide material support and supervision to Peace Corps volunteers which are frequently not available to volunteers in other Peace Corps projects. In addition, AID and other development agencies benefit because the volunteers generally have a much closer relationship than do the development professionals with people in the rural areas who are the focus of their basic human needs programs. More joint programming and intensified program coordination are planned in the future.

Other cooperative agreements, for technical assistance, project coordination and technical training collaboration, have been recently established by the Peace Corps with the Department of Health, Education and Welfare (Office of International Health and Community Development Corporation); the Department of Agriculture; World Health Organization; Pan American Health Organization; United Nations Development Programs (including the United Nation's Volunteer Programs and the United Nations Capital Development Fund); the World Bank; International Committee to Combat the Effects of the Draught in the Sahel; Club des Amis ud Sahel, and dozens of private voluntary organizations.

At the headquarters level, the membership of the Peace Corps on he Development Coordination Committee has given it an opportunity to systematically share its expertise with other U.S. agencies providing assistance to the Third World.

It would not appear necessary to reorganize the Peace Corps in rder to ensure the continued success of these coordination efforts.

(C) DISADVANTAGES OF TRANSFERRING PEACE CORPS OUT OF ACTION

The range of alternative organization options for the Peace Corps ll into the following three general categories:

Merger into the proposed International Development Cooperation Agency (IDCA).

Reestablishment of Peace Corps as a separate Federal Agency.

Constitution of Peace Corps as a quasi-public foundation.

It is the Committee's conclusion that none of these options appear at this time to have the advantages to be gained from the Peace Corps' continued association with ACTION.

1. *Including the Peace Corps in the International Development Corporation Agency.*—The House of Representatives, on April 10, 1979, passed legislation to remove Peace Corps from the ACTION and establish it within the proposed new foreign assistance agency to be called the International Development Cooperation Agency.[illegible] This amendment to H.R. 3324 (The International Development Assistance Act of 1979) provided that "the Peace Corps shall be established within the [International Development Cooperation] Agency." (Section 501(b).) The legislation further provides for the establishment of a Board of Directors, composed of seven members, the Chairman of which will be the Administrator of IDCA. Of the remaining six members, four must be appointed from the public and two shall be from agencies of the U.S. concerned with U.S. development programs. All authorities of the Peace Corps Act which had been administered by the ACTION Agency are to be delegated to the Board of Directors and the Peace Corps Director. The Board would make general regulations for the Peace Corps and make recommendations to the President for the appointment and removal of Peace Corps Directors. The Board would also be charged with responsibility for insuring that Peace Corps activities were coordinated with other U.S. development assistance activities abroad. The Director would be responsible for day-to-day Peace Corps operations, including development of its budget, subject to the Board's overall policy guidance and review. The legislation makes clear that it is the intent of Congress that "in order that the Peace Corps exercise the autonomy required to maintain its unique character and identity, the Director of the Peace Corps shall be responsible for carrying out the policies and programs of the Peace Corps, developing the budget of the Peace Corps, and directing its operations, subject to overall policy guidance and review by the Board." (Section 501(e).) The House bill also provides for presidential appointment of a 30 member Peace Corps Advisory Committee.

Witnesses before the Committee suggested that moving the Peace Corps to IDCA would ensure the Peace Corps operational autonomy and effective control over its own budget and policy, as well as ensure more efficient overall coordination of all U.S. foreign assistance efforts. The desire for greater Peace Corps autonomy is no longer a compelling reason to transfer the program in light of the recent Executive Order giving the Peace Corps greater autonomy within ACTION. The Peace Corps, even though it remains in ACTION, will have at least as much, if not more, operational autonomy and effective control over its own budget and policy that it would have if it were linked to IDCA. In fact, as Chairman of the board that oversees the Peace Corps, the head of IDCA might have greater direct authority over the Peace Corps' budget and policy than the head of ACTION, who will head no comparable governing board.

[illegible] The President proposed creating IDCA in Reorganization Plan No. 2 of 1979, submitted on April 10, 1979, to the Congress. This Committee on May 22, 1979, voted its support for the plan by ordering reported unfavorably S. Res. 140.

The suggestion that the Peace Corps should be linked closer to their country's foreign assistance program goes contrary to the generally agreed need to keep the voluntary program at some distance from the conduct of this Nation's foreign policy generally.

In announcing the Peace Corps in 1961, President Kennedy said, "Our Peace Corps is not designed as an instrument of diplomacy or propaganda or ideological conflict. It is designed to permit our people to exercise more fully their responsibility in the great common cause of world development."

The 1974 National Academy of Sciences study emphasized the need to keep the Peace Corps autonomous and non-political. "To minimize any disadvantages of governmental status," observed the Academy, "the Peace Corps should be insulated as much as possible from political pressures or involvements at home and it should be insulated from any exploitation as an instrument for the accomplishment of intelligence, security, or short-term foreign policy objectives overseas." The Academy also recommended that, ". . . because of its unique appeal to volunteers and its focus on overseas development (the Peace Corps) must not be deprived of its special visibility nor of a special degree of freedom and flexibility in its style of operation" no matter where it is located within the structure of the U.S. Government.[29]

A 1978 Charles F. Kettering Foundation study of the worldwide voluntary action movement and Peace Corps' programs, entitled "Service for Development," recommended that Peace Corps maintain ts broad perspective:

> The future . . . demands from Peace Corps *not* an intensification of its foreign assistance role but equal attention to the traditional Peace Corps' mandates related to world peace and understanding. These special purposes of the Peace Corps will thereby continue to distinguish this one program from all U.S. foreign assistance efforts.

The U.S. Congress has traditionally emphasized the need to exude the Peace Corps from any direct role in either the formulation implementation of American foreign policy. A Dear Colleague ter of July 31, 1978, signed by over 30 Members of the House of epresentatives stated:

> Congress has never before allowed Peace Corps to be used as the proverbial carrot and stick. To consider Peace Corps on the same basis as other foreign assistance would be to destroy the effectiveness of the Peace Corps as a non-political people-to-people program whose purpose is to promote world peace and friendship.
>
> The Congress has consistently excluded the Peace Corps from such constraints on its programs. For example, in 1963, the Foreign Assistance Act was amended to add a new section 638, which states that 'no provision of this act shall be construed to prohibit assistance to any country pursuant to the Peace Corps Act . . . ' The author of this provision, Senator Humphrey, explained that the purpose

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ational Academy of Sciences, "Peace Corps: Perspectives for the Future," p. 48 and of this statement was to make clear that Peace Corps would not be affected by other restrictions in the Foreign Assistance Act. More recently, the 1976 ceiling on aid to Chile was conditioned specifically not to apply to Peace Corps programs. The House in April of this year rejected, by a 169–288 margin, an amendment which would have eliminated the Peace Corps in the Central African Empire.

In our view, the Peace Corps is a special expression of the goodwill the American people have toward the people of other countries, irrespective of forms of government, policies, or current leadership. We urge you to allow it to continue as a humanitarian effort by voting against any amendments which would limit its operations on the basis of political considerations.

Presidents Johnson, Nixon, Ford, and, most recently, President Carter, have periodically reaffirmed that the Peace Corps must remain nonpolitical and separate from established foreign aid. Former Secretary of State Dean Rusk put it this way: "To make the Peace Corps an instrument of foreign policy would be to rob it of its contribution to foreign policy."[30]

Congressman Clement J. Zablocki, Chairman of the House Foreign Relations Committee, similarly spoke in his May 17, 1979, testimony before the Committee of the need to insulate Peace Corps from political pressures:

> . . . in order to maintain its credibility as a non-political, person-to-person expression of American values. Over the years of the Peace Corps' existence the House Foreign Affairs Committee has strongly and consistently defended the position that the Peace Corps should not be used as a foreign policy tool.

As more and more Third World nations have gained their independence or become increasingly nationalistic, a direct association between Peace Corps and other U.S. instruments which are used for foreign policy motives would be injurious to Peace Corps' credibility within existing host nations. The Peace Corps serves only at the request of the host country's government, and remains there at the pleasure of that government. Volunteers are not official members of American missions overseas. They do not have diplomatic immunity or other official privileges. Host nations have always been assured that Peace Corps' motives are firmly rooted in a nonpolitical concern for human welfare. To violate this understanding would clearly limit the Peace Corps' future potential.

Despite an absolute Peace Corps ban on the hiring of anyone with a CIA, National Security Agency, military, or counterintelligence background, an element of the world's press have from time to time alleged the Peace Corps to be a "junior auxiliary" of the CIA. Any public perception that the Peace Corps has been or is being infiltrated by the CIA will plague the Peace Corps overseas, obstruct its recruitment efforts on the campuses, and adversely affect its public image. Yet, any reorganization where Peace Corps is brought more under the aegis of the foreign policy agencies of the government would increase the chances of this occurring.

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[30] Secretary of State Dean Rusk. Cable to all Chiefs of Mission, Aug. 29, 1962.

Close links between the Peace Corps and AID could also lead to undue emphasis on the Peace Corps as just a part of this Nation's technical assistance program, to the detriment of the other goals of the Peace Corps. The National Academy of Sciences points out in its study of the Peace Corps that the volunteer program exists to serve three equally important functions: aid to help countries meet their development needs, better understanding of the American people among the people served, and better understanding of other nations among Americans. "The essence of the Peace Corps idea, because it is broad and complex, has frequently led to misunderstanding and attempts to redesign the program," the Academy warns, "to emphasize some single aspect to the exclusion or detriment of the others."[31]

The Congressional Research Service pointed out in a study published earlier this year by the House Foreign Affairs Committee:

> Joint programming between Peace Corps and AID may help expand the impact of AID's development programs, but it also may tend to make Peace Corps activities an adjunct of AID operations and may detract or hinder the volunteer agency in the pursuit of its other goals . . . If the Peace Corps is really a unique program, many of its activities should continue to be clearly separated from programs of other U.S. agencies. If Peace Corps is to take on tasks which overlap the functions or goals of the AID New Directions program, however, close program integration may be needed and its purpose as a unique separate program could well be brought into question.[32]

A reorganization which resulted in too much program integration between the Peace Corps and the AID program might, in fact, violate section 4(d) of the Peace Corps Act as currently written. This provision states that, except with the approval of the Secretary of State, "the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned."

The reorganization could undermine the special attractiveness of he Peace Corps to Americans as a reflection of the moral concern by he people of the United States for the people of the world. As has been he case in some European countries which amalgamated its volunteer gencies into foreign assistance ministries, placing the program in DCA would turn it into more a "junior experts" scheme than a highly otivated volunteer program. The morale of such "junior experts" ould suffer seriously as they work for subsistence wages alongside ally paid employees of AID. Inevitably, the appeal of the Peace Corps Americans would decline.

The Carter Administration has recently sought to attract back to e Peace Corps in greater number the generalist volunteer who is otivated by idealism and enthusiasm, but who may not qualify as a chnical specialist. This effort is intended to counterbalance the emphasis the Nixon Administration placed on obtaining trained development specialists. Closer association of the Peace Corps with this country's foreign assistance agency could hurt this new recruiting effort by causing renewed emphasis on the technical aspects of development work.

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[31] National Academy of Sciences, "Peace Corps: Perspectives for the Future." p. 140.

[32] U.S. Congress, House. Committee on Foreign Affairs. Issues and Options In The rganization of Foreign Aid. (Committee print, by the Foreign Affairs and National ense Division, CRS). 96th Cong., 1st sess., May 1979, p. 34.

Proposals to link the Peace Corps with AID have been considered in the past and rejected each time. According to Bill Moyers' letter to Congressman Zablocki, Chairman of the House Foreign Affairs Committee:

> When the Peace Corps was about to be enacted, back in 1961, the old-line employees of State and Aid coveted it greedily. It was a natural instinct: established bureaucracies do not like competition from new people. They sought to absorb it. This was, of course, the fundamental fallacy of their perspective on the Peace Corps. It was not to be economic assistance in the traditional sense. Money and goods were not to change hands. The Peace Corps wasn't even to be "technical assistance" in the way that term was used by the experts. It was to be a sharing of people.

Moyers goes on to say that:

> . . . to shoehorn them [volunteers] into existing [AID] job descriptions would be to diminish, tame, and finally extinguish the purpose and enduring value of the program. We could not pour old wine into new bottles . . . the result, we knew would be anonymity for an organization which needed to be publicly conspicuous to attract and excite volunteers.

President Johnson opposed a merger of Peace Corps and AID. He is reported to have told the Peace Corps' first Director, Sargent Shriver:

> . . . Besides, you don't have money to give out and all these other programs do, so you'll get treated like an orphan in a big family where your prestige depends on your budget. And to top it off, they'll take your volunteers and make them GS–1's and 2's and you'll send your little government employees marching off into the villages over there when you want those countries to accept you as American citizens and not employees of the Department of State . . .
>
> . . . I don't think your folks are going to write home and tell their Moms and Dads that they're giving up two years of their lives for the Agency for International Development.[33]

Although the testimony before the committee was split on this issue, a considerable amount of the testimony expressed similar concerns that linking the Peace Corps to IDCA and AID might either subtly or in fact, both at home or abroad, alter its program goals and undermine its Congressional mandate. The Director of the Independent Foundation, an association of former Peace Corps and VISTA volunteers, wrote the Committee:

> Overall, former Peace Corps Volunteers want the Peace Corps to be as free as possible from entanglements with the

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[33] Letter from Bill Moyers to Representative Clement J. Zablocki. Reprinted in the Congressional Record, July 13, 1978, p. E3740 (Extension of Remarks by Representative Bonker).

> US foreign assistance establishment and to emphasize its role as a "people-to-people" program that is not to be made part of American Government foreign policy.

Additional testimony submitted to the Committee from the Development Group for Alternative Policies stated:

> It is important that the Peace Corps remain structurally removed from the aid industry, at least until foreign aid itself is re-evaluated and until development assistance is divorced from American foreign policymaking. Although ACTION has certainly not been free of political appointments and interference, the situation can only be made worse by relocating the Pace Corps inside an agency that can still be used in the implementation of American foreign policy. While it is disturbing to see the recent development of a program in which Peace Corps Volunteers will collect information (on energy use) for A.I.D., the potential for abuse of the Peace Corps in the field would be far greater were it to be within a new aid institution that cannot guarantee its autonomy.

Congressman Christopher J. Dodd observed in testimony before the committee:

> In fact, the entire concept of placing the Peace Corps within a large agency which by its definition is to be concerned with our short-term foreign policy goals is completely contrary to the spirit of the Peace Corps mission. One problem in particular which we must consider is that the proposed interchangeability of personnel within IDCA could very easily endanger the Peace Corps by giving the appearance of Peace Corps involvement with U.S. intelligence-gathering activities.

Congressman Tony P. Hall summed up his concerns in testimony before this Committee as follows:

> I fear that submerging the Peace Corps in IDCA would jeopardize the unique appeal of this adventure in international people-to-people service. Individuals join the Peace Corps because they want to help and serve other people. They do not join in order to become part of the bureaucracy. The Peace Corps is very special in this regard, too special to be treated organizationally as a tool of our foreign aid program.

The Peace Corps could, of course, be place inside IDCA in a completely autonomous status in order to ensure its continued distance from other foreign policy activities of the government. To do so, however, would be contrary to the purpose of the proposed reorganization in the first place. Chairman Zablocki, in testimony before the House Government Operations Committee on May 21, 1979, indicated that title V of the House bill "transfers" the Peace Corps to IDCA and that "bringing the Peace Corps into direct association with the IDCA will facilitate cooperation and coordination between the Peace Corps and the Agency for International Development."

Furthermore, if transferring the Peace Corps to IDCA does not link the Peace Corps closer to the country's foreign assistance program there would appear to be little or no reason to go to the trouble of undertaking the reorganization in the first place. This is especially so since placing the Peace Corps within IDCA, in any way, would sever the valuable relationship which now exists in ACTION between this country's domestic and international volunteer programs. No longer would Peace Corps be seen within the context of a world-wide anti-poverty agency. The reorganization would preclude unified national policies on the terms and conditions of voluntary service. The close association between ACTION and the private voluntary organization working both here and abroad would be reduced with a resulting loss of effectiveness to both the government and private voluntary efforts. The Peace Corps could no longer benefit from the dialogue and technical cooperation now existing between ACTION's domestic programs and volunteer programs around the world.

2. *Establishing a Completely Independent Peace Corps.*—Other organizational options for the Peace Corps largely involve the establishment of a completely independent Peace Corps either in a separate federal agency, or in a quasi-government foundation.

Congressman Don Bonker (D-Wash.) and various outside study groups have from time to time recommended that Peace Corps be reconstituted as a "quasi-government foundation," similar to the Legal Services Corporation or the Corporation for Public Broadcasting. The Foundation would be governed by a seven person Board—three appointed by the President from senior government officials concerned with development and four, from whom the chairman and vice-chairman would be named, from private citizens knowledgeable about voluntary programs and development abroad. The Board would appoint the Peace Corps Director and Deputy Director and exercise general policy and budgetary authority over the program. A Peace Corps Advisory Council chaired by the U.S. Vice President with a membership drawn from the Congress, officials or employees of AID, State Department and the United Nations, and four prominent citizens of developing nations, would also exist to advise the Board on policy and program matters. This proposal was also suggested to President Kennedy in 1961 in order to avoid any alleged "stigma" resulting from association with the Federal Government.

The advantages of a quasi-government foundation are considered to be that Peace Corps would gain operational independence and autonomy of decisionmaking. There would be even further separation from the short-term expediencies of foreign policy. It would permit greater involvement in controversial program areas. The Peace Corps would acquire a nongovernment identity, and its national visibility perhaps increased.

In the past a number of other individuals have also advocated retaining the Peace Corps as a government agency, but making it a fully separate and independent agency. The advantages of the separate Peace Corps option were considered to be that Peace Corps would regain its image as an independent program, and the Peace Corps would gain operational independence at the headquarters level.

The Committee concludes that neither of these alternatives are preferable at this time to retaining Peace Corps within ACTION in an autonomous state.

Creation of a separate agency or foundation to preserve the independence of the Peace Corps should no longer be necessary in view of the recent Executive Order issued on May 16, 1979.

Until the Peace Corps has operated for a period of time under its new Executive Order there will be no reasonable way to determine whether complete independence is required. The Committee received no evidence to convince it at this time that any problems that may now be hindering the effectiveness of the Peace Corps are so grave that the only answer is an immediate, full independence from the rest of the government, despite all the disadvantages and problems with such a step. The arrangements established for the Peace Corps by the Executive order should be given a try.

In fact, complete independence on foreign policy matters may be neither possible or desirable. The Peace Corps has never enjoyed a completely independent status. It does affect the overall image and presence of the U.S. Government abroad, and therefore should remain part of the Government. Since the Peace Corps will continue to be funded by the U.S. taxpayer, it is undesirable for Congress to have no direct control or oversight of the operation of the program. In part, the United States now supports the Peace Corps with taxpayer's money because the moral symbolism the Peace Corps now provides throughout the world, and the uniquely personal assistance it offers, helps the U.S. Government in the end throughout the world. These advantages to the U.S. Government could be lost if the Peace Corps' relations with the Government were severed by placing it in a foundation governed by a Board containing a majority of individuals from outside the Government. At the least, a public foundation, institutionally separated from the rest of the Government or the overall foreign policy goals of the country, would be less certain of Presidential and Congressional support than the Peace Corps is today.

Creating a fully independent Peace Corps would also cost the taxpayer additional money for support services needed by the programs. The Administration has estimated that splitting the ACTION agency into two fully independent agencies (Peace Corps and the domestic programs) would result in an additional total cost to the taxpayers of about $15 million. These costs would be attributable to $5.5 million in the area of recruitment and communications; $7.1 million for general administrative functions, including personnel, computer support and health services; and $2.5 million for planning and evaluation. There would likely be additional miscellaneous start-up costs which would account for an additional $774,000.[24]

For these reasons, the Committee concluded that at this time the Peace Corps should not be placed in a fully independent agency or foundation.

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[24] The new Executive Order will not cause similar increases in support costs. Under e new Executive Order the Director of ACTION and the Director of Peace Corps have a 0-day period to determine which support services they will continue to share and those hich will be handled solely by the Peace Corps. This recognition may affect to some ited extent the net savings on support services realized by keeping all the volunteer grams together in ACTION, but until it is decided which services will continue to shared by the Peace Corps and the rest of ACTION, it is impossible to estimate the act effect of the new Executive Order in this regard. In any event, OMB informed the mmittee May 31, 1979, that "There should be no net cost increase as a result of the ecutive Order. Although agency support services will be reorganized and certain all cost increases may appear in particular areas, these increases should be offset by vings to be developed elsewhere."

III. The Domestic Programs of ACTION

This section focuses on ACTION's domestic programs—Volunteers-In-Service-To-America (VISTA), the Retired Senior Volunteer Program, the Foster Grandparent Program, the Senior Companion Program, the University Year for Action National Student Volunteer Program, and the demonstration programs. There is a discussion of each program's origin and legislative history, and programmatic emphasis. The section describes the advantages of keeping these programs together and concludes that retention of ACTION is preferable to transferring the individual domestic programs to several other existing agencies.

(A) ORIGIN AND NATURE OF THE DOMESTIC PROGRAMS

In April 1979 testimony before the House Committee on Education and Labor, the Executive Director of the National Center for Voluntary Action set forth the policies and support functions unique to ACTION as the Federal agency for volunteerism. These include:[38]

(1) Increasing public recognition of the need for and potential of the voluntary sector and its varied activities;

(2) Establishing policies to encourage and broaden charitable giving by private citizens and economic organizations;

(3) Funding demonstration and pilot programs, and assisting in the replication of successful programs;

(4) Supporting national technical assistance and training programs, expanding or creating private capabilities where possible;

(5) Providing direct support grants to develop new voluntary organizations and assisting in developing a financially secure base for emerging and established organizations, with particular emphasis on low-income, minority, and community-based groups;

(6) Supporting comprehensive research and information programs which are beyond the scope of voluntary organizations; and

(7) Protecting the independence of the voluntary sector.

There follows a short description of a number of the programs funded by ACTION to carry out these goals:

1. *Volunteers-In-Service-To-America (VISTA)*

In March of 1963, Sargent Shriver, as special assistant to President Johnson, made a Congressional presentation outlining the problems of poverty and Administration proposals to combat them. One of the proposals was a program entitled "Volunteers for America" through which volunteers would serve on a full time basis in community projects designed to reduce poverty. This proposal later was enacted into law (August 20, 1964) as Volunteers-In-Service-To-America (VISTA) under the Economic Opportunity Act (Public Law 88-452). This Act also established the Office of Economic Opportunity to administer VISTA and other antipoverty related programs. VISTA was extended and somewhat modified under the Economic Opportunity

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[38] House Committee on Education and Labor. Hearings on Domestic Volunteer Services Act Amendments of 1979. April 5, 1979.

Act Amendments of 1966, 1967, 1969, and 1971. During 1971, VISTA and other Federal volunteer programs were transferred from their respective administering agencies to the then newly created ACTION agency. The Domestic Volunteer Service Act of 1973 (P. L. 93–113) provided a statutory basis for ACTION and its programs, and repealed legislative authority previously establishing the domestic volunteer programs.

In 1979, VISTA's budget of $25 million supports 4,500 volunteers and trainees.[36]

VISTA's purpose, as that of other programs created under the Economic Opportunity Act, was declared in the Economic Opportunity Act (Public Law 88–452) to be the elimination of:

> * * * the paradox of poverty in the midst of plenty—by opening to everyone the opportunity to work, and the opportunity to live in decency and dignity * * *

As stated in section 101 of the 1973 act, VISTA's mandate is:

> * * * to strengthen and supplement efforts to eliminate poverty and poverty-related human, social and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

VISTA's mandate was broadened under the Domestic Volunteer Service Act of 1973 to help the poor as well as near poor. As evidenced in the Senate report on the bill:

> This language clarifies ithe Committee's recognition that volunteer efforts in problem areas such as lead-based paint poisoning and rehabilitation of criminal offenders are legitimate, poverty-related activities to be carried out by VISTA volunteers even though the recipients of these volunteer efforts might not technically fall at or below the official poverty line.[37]

Volunteers concentrate on mobilizing community resources by generally increasing the residents' abilities to cope with and solve their own problems. The VISTA guidance paper of March 1978 states:[38]

> The best way to accomplish the central purpose of the VISTA program is to assure that VISTA projects have as their method of attaching poverty the organization of low-income people to bring long term benefits to themselves and their communities through their own collective efforts.
>
> VISTA Volunteers can serve a unique role in the effort against poverty by working to empower groups of low-income citizens so they can influence the decisions that affect their lives.

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[36] Appendix 9 contains a complete listing of the budget and size of VISTA, 1965-1979.

[37] U.S. Senate. Committee on Labor and Public Welfare. Report No. 93311. 93rd Congress. July 11, 1973 : 1.

[38] VISTA Guidance Paper. ACTION. March 1978.

Low-income people should participate in making the decisions that determine the kinds of services offered in their neighborhoods; for example, the education received by their children, the location and kinds of health care facilities, the location of highways and other public improvement, the amount and form of assistance offered, the kind and location of housing developed as well as many other decisions that are too often made for the poor by the rest of us.

Successful citizen-participation organization will result in the increased access of low-income people to decision making through cooperative efforts with established public and private institutions, or through the creation of new mechanisms for the participation of low-income people in the decision making processes which affect their lives. The net result will be improved conditions for the poor through the more effective deployment of public and private resources designed to relieve poverty.

Volunteers, who must be age 18 and over, serve for a period of 1 to 2 years. Volunteers are expected to live among, and at the economic level of, the people served. Volunteers from low-income families are assigned to serve in their home communities. Prior to the assignment of any low-income volunteer, the Director of ACTION is required by law to provide each volunteer an individual career-development plan to help him move from volunteer service to gainful employment.

Beginning in Spring of 1977 ACTION also started to award national grants to national organizations with affiliates in a number of states, rather than furnishing support directly to VISTA Volunteers themselves. More than 70 percent of each national grant is used to pay the living expenses and other direct support costs of VISTA volunteers. At present, there are 11 national grants under which 470 volunteers serve (representing 10.5 percent of all VISTA volunteers). The amount of national grants made in 1978, $3.5 million, accounted for 14 percent of VISTA's overall budget.

According to ACTION, national grants enable VISTA to:

(1) Program for national impact on issues of concern among poor;

(2) Reach populations of special need;

(3) Develop projects with grassroots groups which ordinarily would not be sophisticated enough to compete for Federal funds; and

(4) Provide a single, simplified application process for multiple grassroots projects which have a common program emphasis.[29]

2. *Older American Volunteer Programs*

The Older American Volunteer Programs include the Foster Grandparent and Senior Companion Programs for low-income persons age 60 and older, and the Retired Senior Volunteer Programs for persons age 60 and older regardless of their income level.

Retired Senior Volunteer Program (RSVP).—The Older Americans Act of 1969 authorized the retired senior volunteer program in response to the potential source of volunteers among retired persons age 60 and older. Congressional testimony in 1969 indicated there could be as many as 1 million persons interested in a volunteer program such as RSVP. Testimony also indicated that older people have the time, skills, and interest in providing volunteer service. In addition, President Nixon hoped volunteerism could provide an additional way to tackle some of the country's domestic problems. The program was initially administered by HEW's Administration on Aging. It became operational in 1971, a few months before the creation of ACTION.

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[29] U.S. House. Committee on Appropriations. Hearings. Department of Labor and Health, Education and Welfare, and Related Agencies Appropriations for Fiscal Year 1979. 1978: 621–622.

Since the programs became operational in 1971, RSVP volunteers have served, on the average of 4 hours per week, in activities ranging from serving older home-bound individuals to probation officers in the juvenile court system and serving childern in day care centers.

In 1979, the Retired Senior Volunteer Program has a budget of $20 million supporting 250,000 volunteers in 682 different projects.[40]

Foster Grandparent Program.—Under authority of the Economic Opportunity Act of 1964, title II (Urban and Rural Community Action Programs) the Foster Grandparent Program was initiated in 1965 as a pilot project. It was administered by the Administration on Aging of HEW in an accordance with an agreement between HEW and the Office of Economic Opportunity. The intent of the program vas two-fold: (1) to be an employment resource for low-income per- ons age 60 and older who are paid between $1.60 and $2 per hour; nd (2) to provide care to children residing in institutions.

Foster Grandparents provide personal care to two or three institu- ionalized children each—children who are mentally retarded, emo- onally disturbed, or who are suffering from another disability. olunteers also have begun to work with noninstitutionalized mentally nd emotionally handicapped, or socially deprived or outcast children prevent or delay institutionalization.

In 1979, ACTION has $35.4 million budgeted to support 16,500 lunteers in 195 different projects participating in the Foster Grand- rent Program.[41]

Senior Companion Program.— The Domestic Volunteer Service Act 1973 authorized the Senior Companion Program in response to the mber of older low-income persons interested in volunteering and e number of home-bound persons in need of support.

Senior companions provide supportive care to adults, primarily older rsons, in need of companions, home help services, and other support- care. Volunteers receive the same stipend as foster grandparents. n 1979 there are 3,095 volunteers participating in 50 projects funded a budget of $9 million.[42]

Student volunteer programs

tudent volunteer programs—University Year for Action and the ional Student Volunteer Programs—generate the volunteer spirit ng the Nation's youth. They encourage educational institutions to g together students to serve full and part-time in antipoverty re- d activities, thus enabling students to combine practical experience academic studies.

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ppendix 10 contains a description of the program's size and budget, 1971–1979.
ppendix 11 describes the size and budget of the program, 1966–1979.
ppendix 12 lists the budget and size of the Senior Companion Programs, 1976–79.

The goals of these programs are:

(1) To provide effective student resources to work on poverty problems.

(2) To encourage university involvement in local poverty communities.

(3) To combine community service and service-learning in an integrated 1-year program for students.

(4) To administer volunteer projects at the local level by using universities.

(5) To institutionalize the above goals at participating institutions.

University Year for Action (UYA).—When ACTION was created in July of 1971, the President directed its officers to develop new opportunities for volunteer service. During the same year the Carnegie Commission on Higher Education recommended experienced-based education where students could integrate academic goals with work-related activities. Based on the Carnegie report and the potential volunteer source provided by America's 11 million higher education students, ACTION developed University Year for ACTION. It was developed as an experimental program under the authority of the Economic Opportunity Act, title VIII, which also authorized VISTA.

Through UYA, college students are placed in volunteer positions of service to poverty-stricken communities for 12 months full-time service. The students earn academic credit for such service. The program operates by providing grants to educational institutions (nonprofit and private colleges and universities) for the purpose of placing students in local agencies and organizations involved in antipoverty activities. Grants cover administrative costs, operating costs, and volunteer stipends. The activities of UYA volunteers generally fall into one of seven broad categories: community services, education, housing, economic development, health and nutrition, energy, and legal services. A typical UYA project will have volunteers working in several of these categories.

ACTION intends to soon phase out the UYA program and replace it with a comparable program, but one which is more compatible with a student's academic year. The 1978 budget provided $5 million to support 1,000 volunteer years in 51 participating schools.[43]

National Student Volunteer Program (NSVP).—This program was created under the Office of Economic Opportunity in 1969 to provide technical assistance and information to colleges and universities engaging students in volunteer service. The program was transferred to ACTION in 1971 and extended to high schools in 1972.

NSVP's goal is to encourage high school and college-age students to serve in projects which focus on "basic human needs" (particularly hunger, community regeneration and literacy), while demonstrating the value of service as part of the educational process. NSVP has no authority over local program activities and basically does not grant operating funds. Unlike the University Year for Action program, which does provide grants, NSVP provides only technical assistance. It does so through volunteer manuals, journals, training seminars and consultation services designed to help new volunteer student programs to begin, or existing ones to improve, their efforts to solve local poverty problems.

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[43] Appendix 13 lists the budget and size of the program, 1972–79.

NSVP has had no more than three staff persons at any one time since its inception in 1969. Its operating budget is about $250,000 to $325,000 a year. Since 1969, a total of only $2 to $3 million has been allocated for this program.

4. *Demonstration Programs*

ACTION has supported and encouraged innovative new programs that make greatest use of volunteers through demonstration projects authorized by Part C of the Domestic Volunteer Service Act. ACTION has supported such diverse activities as the development of the first comprehensive information system on volunteering, demonstration projects for displaced homemakers, training conferences for volunteer leaders and administrators. It offered initial support to development of the Voluntary Action Centers, the primary local agencies for recruiting and referring citizens into volunteer jobs. It helped to create and now supports statewide offices of volunteerism in cooperation with the governors.

The Administration has requested $1.5 million for fiscal year 1980 for this aspect of ACTION's work.

(B) ADVANTAGES OF RETAINING THE DOMESTIC PROGRAMS IN ACTION

The large majority of witnesses testifying before this Committee, including a substantial number of spokesmen of volunteer groups, supported retention of the domestic programs within ACTION. The following 48 officials or groups were among those who indicated to this Committee that they favor retention of the domestic programs in ACTION:

Hon. Alan Cranston (D.-Calif.).
Hon. Claiborne Pell (D.-R.I.).
Hon. William M. Brodhead (D.-Mich.).
Hon. Donald Albosta (D.-Mich.).
Hon. James J. Blanchard (D.-Mich.).
Hon. David E. Bonior (D.-Mich.).
Hon. John Conyers, Jr. (D.-Mich.).
Hon. Dale E. Kildee (D.-Mich.).
Hon. Bob Traxler (D.-Mich.).
Hon. Howard Wolpe (D.-Mich.).
Hon. George Miller (D.-Calif.).
Hon. Claude Pepper (D.-Fla.).
Hon. Paul Simon (D.-Ill.).
Hon. Ted Weiss (D.-N.Y.).
Herman Badillo, Deputy Mayor for Policy, city of New York.
Robert N. Butler, M.D., Director, National Institute on Aging.
Hon. Bill Clinton, Governor, State of Arkansas.
Annette Finesilver, Project Coordinator, Fixed Income Consumer Counseling, city and county of Denver.
Jack Leff, Executive Director, Homemaker Services Bureau, New Haven, Conn.
Frank S. McGee, Executive Director, Department of Aging, Bridgeport, Conn.

Hon. Thomas P. O'Neill, III, Lieutenant Governor, State of Massachusetts.

Irene Pinkau, Ph. D., Project Director, Development Services Cooperation Project.

Hon. Kevin H. White, Mayor, city of Boston.

Alliance for Volunteerism (Dorothy Height, President).

American Association of Homes for the Aging (David C. Crowley, Executive Vice President).

ADA (Americans for Democratic Action (Leslie Loble, Legislative Representative; Patsy T. Mink, President; Leon Shull, National Director).

Campaign for Human Development, U.S. Catholic Conference (Rev. Marvin A. Mottett, Executive Director).

Center for Community Change (Pablo Eisenberg, President).

Community Church of New York (Donald Szantho Harrington, Senior Minister).

Community Congress of San Diego (John Wedemeyer, Executive Director).

The Independent Foundation (Patrick Saccomandi, National Director).

Institute for Local Self-Reliance (Harriet Barlow, Director).

National Association of Foster Grandparent Program Directors (Charles E. Archbald, II, President).

National Association of Neighborhoods (Milton Kotler, Executive Director; Sally Martin Fisher, President).

National Association of Retired Senior Volunteer Program Directors (Betty Herman, President).

National Association of Senior Companion Project Directors (John F. Pribyl, President).

National Association of Social Workers (Alfonso Gonzalez, Legislative Associate).

National Center for Urban and Ethnic Affairs (Dr. John A. Kromkowski, President; Andrew W. Ebona, Executive Director).

National Center for Voluntary Action (Kerry Kenn Allen, Executive Director).

National Citizens' Coalition for Nursing Home Reform (Elma L. Griesel, Executive Director).

The American Federation of State, County, and Municipal Employees, Local Union 2027 (Victor Basile, President).

National Congress of American Indians (George Waters, Coordinator, Legislative Communications Department).

National Council of Negro Women (Dorothy Height, President).

National Retired Teachers Association, American Association of Retired Persons (Dr. Paul Kerschner, Associate Director).

National Urban Coalition (M. Carl Holman, President; Sandra Solomon, Director, Governmental Affairs).

New York State Black and Puerto Rican Caucus.

United Way of America (Jack Moskowitz, Vice President for Government Relations).

Urban Elderly Coalition (Ruth C. Braver, Executive Director).

In addition the Committee received numerous supporting letters from direct participants in VISTA or the Older Americans programs.

In sum, the hearing record provides considerable evidence that ACTION's domestic programs are providing a purposeful function by helping volunteer organizations, run by the participants themselves, meet their community needs. ACTION is the agency to which the volunteer community looks first for assistance, resources, and support. The agency is perceived by private volunteer organizations as the primary Federal agency concerned with the part-time involvement of citizens as volunteers in their communities. Abolition of ACTION by the transfer of the programs to other agencies would deprive this government's efforts to encourage voluntary efforts in this country of much of its focus. It would risk submerging the volunteer programs in larger agencies that are unlikely to give the programs as much emphasis as they would receive as part of ACTION.

The following are the primary reasons why this Committee concludes that the domestic programs should be retained in ACTION.

1. *ACTION Provides a Focus and Priority to Volunteer Efforts that Helps Tap Most Effectively the Public's Interest in Volunteer Work*

Volunteering is an important American activity:

> The 1974 Census Bureau study estimated that roughly 37 million Americans, one out of every four citizens over the age of 14, are regularly involved in some kind of volunteer activity.
>
> The dollar value of organized volunteer service has been estimated at over $33.9 billion annually. If unorganized helping activities are included, that total is doubled.
>
> Over 300 American corporations in some way encourage and facilitate the involvement of their employees in community service as volunteers.
>
> A recent Gallup Poll revealed that over 89 percent of Americans would be willing to become active in their communities. If their estimated willingness to serve could be realized, it would result in over 1 billion additional hours of service to the Nation every month.

According to the National Center for Volunteer Action[44] America's olunteer community has grown in scope and sophistication in the ast 10 years. "The tradition of middle-class volunteering by women s given way to the most diverse activities imaginable—advocacy, lf-help, neighborhood organizing, direct service, informal helping. It increasingly true that at one time or another in his or her life, rtually every American is a volunteer. Indeed, the scope of volunteer tivity is such that it is now possible to say that there is no human oblem, no community concern that is not in some way being adessed by citizens as volunteers."

Federal support for volunteering is thus both a means toward the provement of service delivery, and also a recognition of the impor-t and unique role volunteer work plays in American society. An ency like ACTION can most effectively serve as a focal point for unteerism in this country. The same results could not be achieved well if the volunteer programs were scattered among a number Federal agencies, and no one agency saw the encouragement of unteers as its chief mission.

Senate. Governmental Affairs Hearings on ACTION, May 17, 1979.

The National Center for Voluntary Action has stated to the Committee:

> Such support can best be provided through a single agency, the primary mission of which is to encourage, facilitate and strengthen citizen involvement and volunteering. If such support were diffused to many agencies, little would actually be accomplished, as volunteering would be a secondary concern subordinated to the primary mission of the agency. Also, in such a situation, it would be virtually impossible for the volunteer community to effectively participate in decisions regarding program planning and resource allocation that would have a direct impact on it.

In addition to providing a focus for volunteer efforts, ACTION provides a number of support services essential to maintaining volunteer programs in this country. Only a centralized agency for volunteers like ACTION can efficiently meet such needs as the following:

> It has been estimated that there are over 70,000 volunteer coordinators in the country. There are countless thousands more who serve as leaders and managers of citizen efforts. Each of these people need training and continuing support to enable them to do their job better. ACTION provides this training.
>
> Local volunteer leaders, government agencies, corporations, the media and philantropy are constantly seeking to learn more about successful volunteer programs. There is a need for an organized, comprehensive national effort to identify and categorize such efforts and to make the information available for program development and technical assistance purposes. ACTION fills this need.
>
> New and innovative ways are constantly being sought to expand the involvement of citizens as volunteers. Well-run demonstration projects can identify such opportunities, can identify the success factors in such programs and can widely disseminate the results of model programs, increasing the probability of successful replication in other communities. ACTION runs such demonstration projects.

2. A Small Agency like ACTION Helps Provide the Flexibility and Accessibility Necessary to Promote Volunteer Efforts in this Country

ACTION is successful in providing services to the volunteer because it is a small, flexible and nonbureaucratic agency that is easily accessible to private citizens, numerous private voluntary organizations, and State and local governments. As a small, cohesive agency, with less than 2,000 employees, program resources can be carefully targeted through its decentralized field structure in the United States and overseas. ACTION has made a special effort to decentralize its decisionmaking authority to regional and State levels where direct experience and knowledge can affect program decisions.

The volunteer programs might well not be as successful in recruiting volunteers if they were associated with larger, more bureaucratic and less flexible agencies. According to ACTION, public opinion polls consistently confirm the possibility that recruitment would severely drop off if the individual volunteer programs were to be merged with larger agencies.

The testimony of witnesses before the Committee reiterated the importance of this consideration. Testimony submitted to the Committee by Lieutenant Governor of Massachusetts Thomas P. O'Neill, III, commented, for example, that "one of the major strengths of the Peace Corps and VISTA programs" has been their ability to provide citizen-to-citizen assistance without the hindrance of intergovernmental affairs. To facilitate an atmosphere of openness and trust between volunteers and local residents, these programs are best operated by an agency whose only job is to provide that volunteer service.

The testimony of Genevieve Rubocy, immediate past-president of the National Association of Retired Senior Volunteer Program Directors before the House Committee on Education and Labor sounded a similar theme:[45]

> As an administrative convenience, the ACTION agency is small and accessible, focused on management issues, and operates with low "overhead" expenses.
>
> For effective delivery of special services, programs must be locally controlled for both program and cost effectiveness. Therefore, ACTION has moved to decentralize into field offices and to decentralize project funding. . . .
>
> The real core and heart of ACTION and what it might mean is to be found in the careful piecing together of the many elements that go into a "good" volunteer placement—in the work, in other words, of ACTION's field staff of program officers and recruiters, and the administrative support personnel who provide the programs, the technical advice and consultation and the human energy of support and encouragement. There, in the match between someone's effort and someone else's need is the magic of ACTION—its distinctive contribution and reason for being.

Abolishing ACTION and transferring the programs elsewhere would disrupt these close working relationships ACTION enjoys with private voluntary groups and State and local governments. Yet, it is these relationships, and the trust and confidence that these relationships have brought, which is essential to carrying out the voluntary programs.

3. *The Existence of ACTION Makes Joint Programs Possible*

The Committee believes that keeping ACTION intact will best assure coordination between the different volunteer programs. This in turn should lead to cost savings and to cross-fertilization of ideas which improve all the volunteer programs affected.

Prior to the creation of ACTION, cooperative interaction between the volunteer programs then existing, VISTA, Peace Corps, and the Older American Volunteer Programs, did not exist. Peace Corps, VISTA and the Older American Programs were all housed in separate agencies. No interagency agreements existed among them and there was apparently no joint program or support activity. Since 1971 the need for coordination among volunteer programs has increased as the number of these programs have grown. Volunteer programs now in ACTION which did not exist in 1971 include the Senior Companion Program, the University Year for Action program, and the demonstration grants programs.

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[45] House Committee on Education and Labor, Hearings on Domestic Volunteer Services Act Amendments of 1979, April 10, 1979.

The consolidation of volunteer programs in a single agency also encourages the kind of joint program efforts which would be considerably more difficult if the programs were scattered around the government. According to information supplied by ACTION, the following are examples of program linkages the current organization makes possible:

> One out of five VISTA projects is specifically designed to serve the elderly. As an example, in 40 Massachusetts towns, VISTA and Retired Senior volunteers work together in support of the Massachusetts Association of Older Americans. In New York State, VISTA volunteers are working in 17 counties through the New York State Office of Aging to identify mentally and physically disabled elderly who might be future Retired Senior volunteers. And, in each county, VISTA and Retired Senior volunteers are organizing advisory groups for the handicapped.
>
> In Medford, Oregon, the Josephine VISTA Association's assistance to runaway teenagers and troubled adolescents has been aided by Foster Grandparent and Retired Senior volunteers.
>
> In 41 percent of the 568 total Retired Senior Volunteer projects, there is joint program with another ACTION effort. In Warwick and Providence, Rhode Island, for example, there are 20 Retired Senior volunteers and Senior Companion volunteers working on a VISTA project called the Coalition for Consumer Justice; a project which serves the needs of the elderly and has been instrumental in convincing the state government to make retroactive SSI payments to the elderly. It has also won free public transportation for riders on public assistance.
>
> In Hannibal, Missouri, a VISTA project with the Douglas Community Center has joined with retired senior volunteers in the establishment of neighborhood councils for the poor and training of local community leaders.
>
> In Des Moines, Iowa, a church group sponsor of VISTA has enlisted retired senior volunteers to help them create a senior citizens council to speak for the elderly in greater Des Moines.
>
> In Caruthersville, Missouri, a VISTA center for women in cooperation with the retired senior volunteer program has organized self-help groups of low-income women. Education programs, marriage counseling, domestic violence and child abuse are targets of their efforts.

The significant possibilities that exist in ACTION for cooperation between volunteer programs was exemplified by a May 16, 1979, letter to the Committee by the National Citizens' Coalition for Nursing Home Reform. Elma Griesel, Executive Director of the Coalition, commented:

> The fact that VISTA is part of ACTION has enriched our program because of our contact with other volunteer programs administered by the same agency. The contact with the Older American Volunteer Programs has been particu-

larly useful. There is great potential for these two programs to make a greater impact through cooperative efforts.

4. *The Current Organization Enables Appropriate Coordination With Other Agencies*

The current organizational arrangements allow ACTION to coordinate its programs, when necessary, with other agencies such as HEW or the Community Services Administration.

In response to specific questions concerning coordination of ACTION with the Community Services Administration, ACTION told the Committee that 13 percent of the Retired Senior Volunteer projects, 20 percent of the Senior companion projects and 35 percent of the Foster Grandparent projects are sponsored by community action agencies. ACTION State offices coordinate with State offices in an effort to either complement, and not duplicate, other services provided to the poor.

ACTION's Older American Volunteer Program and HEW's Administration on Aging cooperate at all levels of their respective organizations. Interagency agreements promoting cooperation and joint programming are in effect. Area agencies on aging and other HEW grantees sponsor individual Older American Volunteer projects and more than 30,000 volunteers from the Retired Senior Volunteer Programs serve on volunteer stations administered by grantees of HEW's Administration on Aging. All project applications are submitted to the appropriate State and local clearinghouses which are funded by HEW, as required by Federal law. Under this procedure other interested and affected State and local agencies review the applications to ensure cooperation, coordination and nonduplication of services at the State and local levels. In addition, each application for a new project is submitted to the State office on aging directly. This affords the State offices the opportunity to review the applications for coordination with State plans and objectives.

Because effective coordination between ACTION and other agenies at the Federal and State level with similar interests already apears to be underway there is no need to abolish ACTION in order improve cooperation in this area.

) DISADVANTAGES OF TRANSFERRING ACTION'S DOMESTIC PROGRAMS TO OTHER AGENCIES

As discussed above, there are significant benefits to be gained from eping the domestic programs together in ACTION. In addition, the mmittee feels at this time there are little or no apparent offsetting vantages which might justify combining these programs with other ncies. To the contrary, such a reorganization would cause added blems which could undermine the effectiveness of the programs. f ACTION were dismantled and the programs all continued, likely pient agencies for the major domestic volunteer programs would be Community Services Administration (CSA) for VISTA, and Administration on Aging of HEW for Older American volunteer grams.

uch a transfer would eliminate the only agency in the government ch has as its primary mandate the encouragement of volunteer ts in the country. At the same time, the merger of the Older

American and VISTA programs into other agencies which primarily administer categorical grant programs could well distort the essential nature of these programs, which is helping to develop self-reliance rather than the delivery of direct benefits to those who rely upon them. The importance attached to the volunteer programs generally could also be reduced as they become submerged in a much larger bureaucracy.

The merger could thus seriously distort the Congressionally mandated nature of the programs with little or no offsetting benefits.

1. VISTA

Combining VISTA with the Community Services Administration would threaten VISTA's unique quality as a volunteer program.

The budget of VISTA is only $35 million in fiscal year 1979, while the community action budget of the Commity Services Administration is $369 million. The energy crisis intervention program administered by the agency is an additional $200 million program. Combining the two could therefor result in the VISTA program receiving little attention compared to the other, much larger programs administered by the Community Services Administration.

In addition, the separate nature of VISTA could be lost as it is combined with programs which have a different focus and means of operation.

The Community Services Administration funds community action projects to provide services for the poor. It is primarily a grant making agency. It places emphasis on providing direct services to the poor people it serves. VISTA, on the other hand, places less emphasis on delivering specific services and more emphasis on helping organizations mobilize resources and organize activities to increase the capacity and ability of citizens and communities to be self-reliant.

Another difference between the programs is the extent to which local public officials control individual projects. The basic technique for implementing the Community Services Administration programs is combining Federal, State and local public and private resources in the organization and operation of local antipoverty projects. The agency's main vehicle for helping the poor is the community action agencies. Community action agencies are locally controlled and organized with public and private funds, and directed and overseen by locally selected boards. Board members are approved by public officials. ACTION tends to support organizations least likely to acquire resources through other public sources. It tends to place volunteers in organizations controlled and operated by those to be served, rather than by boards approved by local public officials. When VISTA was transferred to ACTION in 1971, about 40 percent of the VISTA projects were sponsored by community action agencies of the type the Community Services Administration works with. Today that percentage is only 10 percent.

Yet another difference between the programs is the nature of the population served. VISTA's mandate includes helping the near-poor as well as the poor. This is broader than the mandate of the Community Services Administration which requires its programs to work exclusively with persons whose incomes are below the poverty level.

The distinctly different nature of the two programs is dramatized by the relationship between the two when a major portion of both programs were a part of the Office of Economic Opportunity. Between 1964 and July 1971 VISTA remained autonomous from OEO programs at the 10 regional administrators, and area coordinators.

A reorganization that ignored these differences would once again risk raising the criticism level at VISTA during the Nixon Administration. When VISTA began in 1964, the program generally was conceived as a domestic Peace Corps for enlisting the service of persons who would be assigned to impoverished areas outside their own State. Volunteers were recruited by national headquarters and assigned to projects in Appalachia or other impoverished areas to basically provide a direct service to poor persons such as, tutoring, day care, and legal casework. A significant percentage of volunteers, nearly 70 percent, worked with community action agencies associated with the former U.S. Office of Economic Opportunity. In 1966 Congress amended the enabling legislation to allow low-income persons to volunteer in their own community. Congress intended for low-income volunteers to develop goals and skills that could help lead to their career development.

Programmatically, VISTA underwent significant changes when the Nixon Administration came into office in 1968. Project sponsors were directed not to engage volunteers in direct citizen organizations or resource mobilization but to place them in positions where they would provide staff support. Increasingly volunteers were assigned to organizations or agencies to assist staff in direct client services such as counseling and tutoring, but also in performing regular clerical and other administrative functions. Criticism during these years was aimed at projects using volunteers to substitute for staff rather than to help the poor help themselves. Criticism also was directed at the Administration for deemphasizing VISTA's antipoverty mandate.

It is difficult for the VISTA volunteer to sustain the "volunteer impulse" working under such conditions. While the VISTA volunteer ives at the subsistence level in their host communities, their salaried o-workers earn $20,000–$40,000 for essentially the same job. There s a certain spirit and zeal among volunteers working together that imply cannot be matched by volunteers feeling as if they are nothing more than "cheap labor" to some other larger agency whose institu- ional opinion of volunteering may be relatively low.

When President Carter came into office, ACTION directed project ponsors again to utilize VISTA volunteers in strengthening and stim- lating efforts to help community groups become self-sufficient. His fforts have sought to avoid the prior criticism of the programs as one hat primarily served as substitute staff.

In short, the reorganization could cause the kinds of services deliv- red by VISTA to change to more closely resemble the Community ervices Administration grant programs. VISTA volunteers could be laced far more than they are now in community action agencies or her projects funded by the Community Services Administration. ISTA volunteers might be seen more than they should as simply sub- itute staff. The emphasis in VISTA on helping the near-poor, as well s the poor, might well diminish. The role of local government officials ight increase, further causing the program to resemble more the com- nity action agencies over which such officials now exercise control.

Representative Paul Simon, Chairman of the House Subcommittee on Select Education, wrote the Committee on May 9, 1979,

> In my view, the emphasis of the ACTION Agency VISTA program—focused on poverty-related programs but not restricted by CSA poverty guidelines that would prevent activity across a broad range of community situations—would be seriously hampered if the programs were transferred to the CSA.

2. Older American Volunteer Program

The same kind of threat to the nature of the volunteer program would arise if the Older American Program were transferred to HEW's Administration on Aging.

Retired Senior volunteers comprise 90 percent of the total volunteers in ACTION. Projects presently number 682, with 250,000 volunteers contributing 52 million hours of service per year. The annual cost is $80 per volunteer and 39 cents per hour of service.

There is widespread opposition among those directly involved in the Older American program to transferring it to HEW. 450 Older American volunteers from 41 states responded to a survey conducted by the Administration. Ninety-nine percent of those responding opposed a transfer to HEW's Administration on Aging. In March 1979, the National Association of RSVP Directors conducted a survey and found that of the 403 Directors responding (58 percent of all Retired Senior Volunteer Program Directors), 351 (or 87 percent) wished to remain with ACTION, and only 30 supported a transfer to the Administration on Aging. Betty Hermann, President of the National Association of RSVP Directors, described to the Committee the reasons why those responding to the survey preferred to see the program remain with ACTION:

> The *volunteer mission* of the agency provides a federal focus for volunteerism (82 percent) and promotes volunteer service to all ages (58 percent).
>
> The *attitude* of the agency toward those it serves. ACTION promotes utilizing the "strengths" of older persons (57 percent) and contributes to dispelling the myth of old age dependency (62 percent).
>
> *Management is effective.* The Retired Senior Volunteer Program has grown to 250,000 volunteers under ACTION (72 percent) despite the limitation of the national budget. ACTION is a smaller agency and more accessible (66 percent), projects are held administratively accountable (63 percent) and the ACTION staff is oriented to the program needs of the Retired Senior Volunteer Program (52 percent).

On the other hand the Administration on Aging was viewed as a large bureaucracy and less responsive (54 percent) with more layers of administrative costs (55 percent).

Older American volunteers oppose transferring the program to the Administration on Aging as "an artificial graft" of their programs to a Federal agency which treats the elderly more as a problem than as part of the solution. Others complain that the segregation of the programs to an agency which works solely for the elderly is like placing them in a "generational ghetto." It is feared that if the

Foster Grandparent and Senior Companion programs were transferred to HEW, they might be perceived as employment programs, rather than volunteer programs providing stipends. Generally, it is feared that volunteers would not be motivated to participate in the Older American programs if they were transferred from ACTION to HEW.

There is also the danger that the Older American program would not receive adequate attention in HEW. This danger is especially real because of the relative size of these Older American programs and the budget of the Administration on Aging. The Budget for the Administration on Aging in fiscal year 1979 was $506 million, and the Administration has requested for fiscal year 1980 an increase to $556 million. In contrast, the fiscal year 1979 budget of all the Older American programs combined was only $64.5 million.

3. *Other Considerations*

While transferring the Older American Programs to HEW, and VISTA to the Community Services Administration, could threaten the essential nature of these programs, there would appear to be little offsetting advantages to such a transfer. The reorganization would eliminate the prime focus within the Federal Government for support of volunteer efforts. To the extent appropriate coordination between these ACTION programs on the one hand, and HEW and the Community Services Administration on the other hand, is already possible. There is no apparent organizational problem with the way the domestic volunteer programs are now structured within ACTION that would require transferring them to other agencies.

Such a reorganization would be more likely to increase, rather than decrease, overhead costs for the program. By sharing training and program support services with other ACTION programs, ACTION, as now organized, has achieved demonstrable cost efficiencies. Functions common to domestic programs of ACTION administered by a common office are:

Recruitment and processing of international and domestic volunteers and associated communications activities;

Voluntary citizen participation assistance, liaison and coordination activities;

Agency-wide planning, policy development, budgeting, and evaluation;

Internal management including legal, legislative, equal opportunity, internal audit and inspection, and the activities of the Agency's Director's office;

Administrative functions encompassing management analysis, procurement, acocunting, data processing, personnel, health services, training, and general administrative services.

These advantages could be lost if the programs were transferred to other agencies. OMB does not have at this time any comprehensive estimate of how much extra it would cost in overhead if the domestic programs were transferred to other agencies. However, it has notified the Committee in a letter to the Committee dated May 31, 1979, that it is "likely that additional costs would be incurred if ACTION's programs were sent to other agencies." Concerning specifically the transfer of the domestic programs, OMB stated:

> In the case of a transfer of ACTION's domestic programs to the Community Services Administration and or the Administration on Aging, these agencies would have additional overhead costs imposed upon them. We cannot say without further study whether the sum of these costs would be the same as the costs now borne by ACTION, but duplicative volunteer recruitment, placement, training, public affairs and volunteer support services might need to be developed because these other agencies operate primarily through grants-in-aid.

Since there appears to be little advantage to reorganizing the domestic action programs, and distinct disadvantage to such a reorganization, the Committee does not feel that at this time such a reorganization is warranted.

IV. MINORITY VIEWS

The Labor and Human Resources Committee requested that this Committee “consider . . . whether some or all of the programs administered by the ACTION Agency should be transferred and administered elsewhere.”

In response to this request, the Committee held one day of hearings on the subject on May 17. I attended those hearings and heard the views of several witnesses. Three basic alternatives were mentioned:

1. Remove Peace Corps from ACTION;
2. Dismantle the Agency completely, removing Peace Corps, transferring the Older Americans Programs to the Administration on Aging and placing VISTA in the Community Services Administration;
3. Leave the programs currently in ACTION with that agency, but modify the relationship between the Director of ACTION and the Director of Peace Corps.

I hope the Labor and Human Resources Committee and the Senate do not consider the recommendation adopted by this Committee to be the result of a thorough, careful examination of the proper way to organize this nation's volunteer programs. While the Governmental Affairs Committee complied with the request made of it, in my view, the more fundamental issue still needs to be addressed: the role of the federal government in encouraging public service. I voted against the final recommendation of the Committee in order to draw attention to he fact that this basic issue should be studied and debated by the Congress.

ACTION is now an aggregate of unrelated programs whose only ommon feature is voluntary public service. That link is too thin to erve as a rationale for maintaining the current administrative strucure. However, the absence of stronger integrative features is not ecessarily a reason to disband the agency. While it is not within the risdiction of the Governmental Affairs Committee to examine the gislative mandate of ACTION, I believe that such a study is necesry and I urge that it begin soon. We must give serious thought to ays of promoting public service for those interested in serving in this untry and abroad.

There are thousands of people throughout our country who derive eat satisfaction from public service. It is important that these inviduals, who have so much to offer, be given opportunities to conbute in a meaningful way. Performing necessary public service can d a vital dimension to the lives of older citizens who are no longer ployed, as well as to younger persons seeking public service optunities on the way to a vocation. At the national level, attention uld be directed to appropriate ways of tapping the talents of these ple for service here and in less developed countries. As the calls cutbacks in government spending increase, and the frustrations with government solutions to pressing social problems increase, the role of the volunteer will become even more important.

ACTION could become a force for uniting all volunteers—young, mid-career, and old, rich, poor and disadvantaged, with strong ties to private sector voluntary organizations, and could point to new needs and innovative ways of meeting them. Or it could remain a group of programs put together for administrative convenience.

The action taken by the Governmental Affairs Committee, and the action I anticipate that the Senate will take will delay the time when the basic issue, the national commitment to public service, will be debated. A dialogue should begin soon about the purpose of Federal actions to encourage public service. Only then will it be fruitful to consider how Peace Corps, VISTA, and the Older Americans programs and others that might be created help achieve this national purpose.

DAVE DURENBERGER.

APPENDIX 1

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C., April 26, 1979.

Hon. ABRAHAM RIBICOFF,
Chairman, Governmental Affairs Committee,
3308 Dirksen Senate Office Building,
Washington, D.C.

DEAR ABE: On Wednesday, April 11, the Committee on Labor and Human Resources considered in executive session S. 239, the proposed Domestic Volunteer Service Act Amendments of 1979.

During our deliberations, a motion was made to amend S. 239 with a substitute amendment that would have transferred the Peace Corps to the Department of State, the Older American Volunteer programs to the Administration on Aging, and the other domestic volunteer programs to the Community Services Administration. The motion was rejected by a vote of 11 to 3. Several of our members, however, made clear that their votes against the motion were not on its merits, but rather because they felt there was a jurisdictional question involved and that prior to their deciding on a fundamental reorganization such as was proposed, consideration by the Governmental Affairs Committee would be appropriate.

In response to this concern, the Labor and Human Resources Committee unanimously approved the enclosed resolution, with the understanding that we would transmit it to you, and that the leadership would be requested that S. 239 as reported—which was unanimously ordered reported after approval of the resolution—not be taken up on the floor until the full Senate had received the benefit of your Committee's recommendations.

Senator Javits advised us before the adjournment of our April 11 session that he had previously discussed this matter with you.

We are also enclosing a copy of a letter transmitted to the Labor and Human Resources Committee from the Deputy Director of the Office of Management and Budget in which he sets forth the view of the Administration that the ACTION Agency programs should not be transferred.

We would very much appreciate your expeditious cooperation in this matter, since we would like to be able to move the reauthorization legislation for the ACTION Agency domestic programs as soon as possible.

With best wishes,

Sincerely,

HARRISON A. WILLIAMS, Jr.
Chairman.
RICHARD S. SCHWEIKER,
Ranking Minority Member.

The Committee on Labor and Human Resources on April 11, 1979 unanimously adopted the following:

RESOLUTION

Whereas, on April 10, 1979, the House of Representatives passed legislation (H.R. 3324), by a vote of 276–116, which would transfer the Peace Corps program out of the ACTION Agency and place such program in a proposed new international development agency;

Whereas, an amendment (No. 136) to S. 239 (a bill to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973) which would have transferred the Peace Corps program to the Department of State, the Older American Volunteer Programs to the Administration on Aging, and the other Domestic Volunteer Programs to the Community Services Administration, was considered by the Committee and was defeated, in part because the Committee believed that further study of this proposal was needed, by a vote of 11 to 3:

Whereas, the future status of the ACTION Agency and the administration of the Domestic Volunteer Programs and the Peace Corps program is in question;

Whereas, the President has, according to an April 10, 1979, letter to the Committee from the Deputy Director of the Office of Management and Budget, deceided to retain with the ACTION Agency those programs presently administered there and to make certain organizational and management changes within the ACTION Agency to improve the operation, efficiency, and administration of those programs, and has submitted a reorganization plan to the Congress to establish a new international development agency without inclusion of the Peace Corps; and

Whereas, the reorganization of agencies is within the jurisdiction of the Senate Governmental Affairs Committee which Committee considered Reorganization Plan No. 1 of 1971 creating the ACTION Agency: Now, therefore, be it

Resolved, That the Senate Labor and Human Resources Committee requests the Senate Governmental Affairs Committee to consider, and report to the Senate by June 4, 1979, its recommendations as to whether some or all of the programs administered by the ACTION Agency should be transferred and administered elsewhere; and

Resolved further, That the Chairman of the Senate Labor and Human Resources Committee shall transmit a copy of this resolution to the Chairman of the Senate Governmental Affairs Committee.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 10, 1979.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Several months ago the President directed the Office of Management and Budget to conduct an overall review of ACTION to determine the most appropriate placement of ePace Corps and the domestic volunteer programs. This letter is to inform you of the results of the President's decision and request your support. After considering several alternatives, the President has decided that ACTION should be retained as the principal agency for administering volunteer service programs, and that the effectiveness of the Peace Corps would be enhanced by upgrading its organizational status within ACTION. We would be happy to provide you with additional information on the specific changes that the President has approved.

The Administration is opposed to transferring volunteer service programs from ACTION to other Federal agencies. We believe that such transfers would reduce the effectiveness of increasingly supportive relationships among ACTION's domestic and international volunteer programs, and weaken ACTION's central role in developing and supporting voluntary service efforts at home and abroad. We also believe that the decision to upgrade and strengthen the status of the Peace Corps can be accomplished more quickly and effectively within ACTION.

The Administration fully supports the reauthorization of ACTION's domestic and international programs. We hope that we can count on your strong support of the ACTION agency and its programs in accordance with the President's recent decision.

I would be happy to provide any additional information that might be helpful.

Sincerely,

JOHN P. WHITE,
Deputy Director.

APPENDIX 2

GOVERNMENTAL AFFAIRS COMMITTEE VOTE

The following is the record of the 15 to 2 vote of the Committee recommending that the functions in ACTION not be transferred, and that the Peace Corps have the independence within ACTION provided for by Executive Order 12137:

Yeas	*Nays*
Glenn	Durenberger
Sasser	
Pryor	
Percy	
Danforth	
Cohen	
Ribicoff	
By Proxy or Poll	*By Proxy or Poll*
Jackson	Roth
Eagleton	
Nunn	
Chiles	
Levin	
Javits	
Stevens	
Mathias	

APPENDIX 8

SUMMARY OF CURRENT ACTIVITIES OF ACTION

Percent of total volunteers in each ACTION program

Programs:	*Percent of volunteers*
Peace Corps	2.3
VISTA	1.8
Older Americans program	95.9
Total	100.0

Percent of volunteer man-hours expended in each program

Programs:	*Percent of man-hours*
Peace Corps	13.8
VISTA	11.2
Older Americans program	75.0
Total	100.0

Fiscal year 1979 ACTION agency obligational authority

Domestic programs	$119, 275, 000
Peace Corps	95, 958, 000
Total budget	215, 233, 000

Percentage breakdown of each activity in total ACTION budget

	Percent
Peace Corps	44.6
Training, volunteers and programs	29.3
Program support	17.5
Agencywide support	7.6
Domestic programs	55.4
VISTA	14.8
Older Americans programs	29.0
Domestic program support	6.9
Domestic agencywide support	4.6

Percent of 1979 ACTION budget for administrative activities

	Percent
Total administrative support	36.2
Total agencywide support	12.2

Percent increase of 1979 ACTION budget for administrative activities

	Percent
Total administrative support	40.2
Total agencywide support	13.8
Peace Corps	20.4
Domestic programs	9.0

Source: ACTION.

APPENDIX 4

ACTION, BUDGET AUTHORITY[1]

	Operating expenses, domestic programs		Operating expenses, international programs		
	Amount	Percent	Amount	Percent	Total
Fiscal year:					
1980 (estimate)	$169,607,000	61.7	$105,404,000	38.3	$275,011,000
1979 (estimate)	119,275,000	55.4	95,958,000	44.6	215,233,000
1978	118,377,000	57.9	86,234,000	42.1	204,611,000
1977	109,110,000	57.7	80,000,000	42.3	189,110,000
1976	103,110,000	55.9	81,266,000	44.1	184,376,000
Transition quarter	21,077,000	46.6	24,190,000	53.4	45,267,000
1975	100,000,000	56.3	77,687,000	43.7	177,687,000
1974	91,658,000	54.4	76,963,000	45.6	168,621,000
1973	94,026,000	53.9	80,573,000	46.1	174,599,000
1972	79,092,000	52.2	72,500,000	47.8	151,592,000

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[1] "Funds for ACTION are requested in 2 appropriations: (1) Operating expenses, domestic programs; and (2) Operating expenses, international programs (Peace Corps). These appropriations each contain a share of the agency's common support costs included in the program support activity. * * *" U.S. budget appendix, fiscal year 1980, p. 863.

Source: Congressional Research Service, Library of Congress.

APPENDIX 5

Executive Order 12137 and Related Material

THE WHITE HOUSE

EXECUTIVE ORDER

THE PEACE CORPS

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1-1. *Peace Corps*

1-101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 F.R. 1789), which was continued in existence in that Department under the Peace Corps Act (the "Act") pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 F.R. 7859), and which was transferred to and continued as a component of ACTION by Executive Order No. 11603 of June 30, 1971 (36 F.R. 12675), shall be an agency within ACTION pursuant to the provisions of this Order.

1-102. All references to the "Director" in Part 1-1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1-103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act and by Section 2(b) of Reorganization Plan No. 1 of 1971.

1-104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1-105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551), are hereby delegated to the Director.

1-106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1–107. The reports required by Section 11 of the Act, as amended (22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1–108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1–109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act.

1–110. The negotiation, conclusion, and termination of international agreements pursuant to the Act shall be under the direction of the Secretary of State.

1–111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1946, as amended, pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1–112. The Director shall consult and coordinate with the Director of ACTION to asure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 and this Order.

1–2. *The Peace Corps Advisory Council*

1–201. In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), there is hereby established the Peace Corps Advisory Council.

1–202. The President shall appoint not more than 30 individuals to serve on the Council and shall designate one member as Chairperson. Members shall serve at the pleasure of the President.

1–203. The Council shall advise the President and the Director of the Peace Corps on initiatives needed to promote the purposes of the Peace Corps Act.

1–204. The Council shall submit annually to the President, through the Director of the Peace Corps, a report on its recommendations and activities.

1–205. The Council may request any agency of the United States Government to furnish it with such information as may be useful for the fulfillment of the Council's functions under this Order. Such agencies will, to the extent permitted by law, honor the Council's request.

1–206. The members of the Council shall receive no compensation for service on the Council. Each member of the Council may receive travel expenses, including per diem in lieu of subsistence (5 U.S.C. 5702 and 5703).

1-207. The functions of the President under the Federal Advisory Committee Act which are applicable to the Council, except that of reporting annually to the Congress, shall be performed by the Director of the Peace Corps in accordance with guidelines and procedures established by the Administrator of General Services.

1-208. In accord with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), the Council shall terminate on December 31, 1980, unless extended.

1-3. *Reservation of Functions to the President*

1-301. There are hereby excluded from the delegations made by Section 1-1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (C)(2), (C)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act.

(e) The authority conferred by Section 19 of the Act (22 U.S.C. 2518) to adopt and alter an official seal or emblem of the Peace Corps.

1-4. *Incidental Provisions*

1-401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the enefits provided by Section 528 of the Foreign Service Act of 1946 (22 U.S.C. 928) in cases in which their service under the appointment, mployment, or assignment exceeds thirty months.

1-402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), t is hereby determined to be in furtherance of the purposes of the Act that functions authorized thereby may be performed without re-ard to the applicable laws specified in Section 1 and 2 of Executive Order No. 11223 of May 12, 1965, and with or without consideration s specified in Section 3 of that Order, but subject to the limitations t forth in that Order.

1-403. As used in this Order, the words "Volunteers," "functions," United States," and "United States Government agency" shall have e same meanings, respectively, as they have under the Act.

-5. *National Voluntary Action Program*

1-501. The National Voluntary Action Program to encourage and imulate more widespread and effective voluntary action for solving blic domestic problems, established in the Executive Branch of e Government by Section 1 of Executive Order No. 11470 of May , 1969, is continued in ACTION. That program shall supplement rresponding action by private and other non-Federal organizations such as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of non-governmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1–6. *Director of ACTION*

1–601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 *et seq.*), Reorganization Plan No. 1 of 1971, and Section 1–401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1–602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 and Reorganization Plan No. 1 of 1971.

1–603. The head of each Federal department or agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1–604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

1–605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1.–7. *General Provisions*

1–701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements, and other actions made, issued or entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1-702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1-703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1-704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1-705. The authority conferred by Sections 1-703 and 1-704 of this Order shall supplement, not limit, the provisions of Section 1-108 of this Order.

1-706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1-707. This Order shall become effective May 16, 1979.

JIMMY CARTER.

THE WHITE HOUSE,
May 16, 1979.

THE WHITE HOUSE,
May 16, 1979.

Memorandum for: The Director of ACTION, the Director of Peace Corps, the Director of the Office of Management and Budget.

Subject: Establishment of the Peace Corps as an autonomous agency within ACTION.

I have today signed the attached Executive order to establish the Peace Corps as an autonomous agency within ACTION. The purpose of this order is to strengthen the vitality, visibility, and independence of the Peace Corps while preserving its position as a joint venture with our domestic volunteer service programs within the framework of ACTION.

This Executive order supersedes Executive Order 11603, issued in 1971. Executive Order 11603 assigned to the ACTION Director the authority to direct the Peace Corps. The attached order delegates that authority to the Peace Corps Director.

The order requires the Peace Corps Director to consult with the Director of ACTION and to coordinate Peace Corps activities with those of ACTION. It provides that the Director of ACTION will be responsible for the general direction of all ACTION functions which jointly serve ACTION's domestic volunteer components and the Peace

Corps, and for advising the Peace Corps Director to ensure the carrying out of the functions assigned to the Peace Corps Director. The order also incorporates those provisions of Executive Order 11603 which gave ACTION and its Director the responsibility for coordinating Federal voluntary ACTION activities. The order does not alter the existing relationship between the Peace Corps and other overseas programs of the United States government, as set out in the Secretary of State's issuance of March 29, 1978, to the Chiefs of Mission.

The Directors of ACTION and the Peace Corps will agree within thirty days upon a plan implementing the changes required by the order. That plan and the resulting reorganization are to be developed and carried out by the Directors of ACTION and the Peace Corps according to the following principles:

> ACTION shall continue to be the principal agency within the Federal Government for administering volunteer service programs. The Director of ACTION shall be responsible for the coordination of programs under the Domestic Volunteer service Act of 1973, the Peace Corps Act, and other Federal acts authorizing volunteer service programs.
>
> The Director of the Peace Corps shall have budgetary authority for the Peace Corps, to include responsibility for establishing and controlling a separate Peace Corps budget, subject only to ACTION policy guidance regarding coordination with domestic programs.
>
> The Director of Peace Corps shall direct and control the operations of the Peace Corps and such support functions as are necessary to carry out the responsibilities delegated by the Executive order. The Director of ACTION shall direct and control support functions which continue jointly to serve ACTION domestic volunteer components and Peace Corps. Decisions concerning the allocation of support functions are to be made jointly by the Peace Corps and ACTION Directors.
>
> Those support functions which should in the interests of economy, efficiency, and good management be carried out jointly, or by shared personnel, shall continue to be so carried out.
>
> Consistent with my August 11, 1977, memorandum, any transfers of functions or personnel from ACTION to the Peace Corps shall be carried out in a manner which minimizes disruption of programs and at the same time minimizes hardship to employees.

The Director of the Office of Management and Budget shall review the implementation agreement reached by the Peace Corps and ACTION Directors and shall sign such determination orders as may be necessary.

JIMMY CARTER.

THE WHITE HOUSE,
Washington.

Hon. FRANK CHURCH,
Chairman, Foreign Relations Committee,
U.S. Senate,
Washington, D.C.

TO CHAIRMAN FRANK CHURCH: The Administration has completed its review of the question of Peace Corps organization. My conclusion is that Peace Corps should remain within ACTION and be constituted there as an autonomous operating entity.

Ever since its creation, ACTION has functioned as a highly centralized organization. Steps taken in 1977 increased Peace Corps visibility and independence but did not fundamentally change its role as a component of ACTION. Thus Peace Corps has lacked sufficient autonomy. I intend to provide this autonomy now. The coming into office of a new Peace Corps Director offers a particularly good opportunity to do so. The question is whether this can best be done within ACTION, or whether movement outside that agency is required.

I have concluded that Peace Corps autonomy can be better and more rapidly accomplished within ACTION, through:

(1) A new Executive order which establishes the responsibility of the Peace Corps Director for running the program (the current order delegates the basic authority to the ACTION Director);

(2) Changes in OMB and ACTION budget procedures which give the Peace Corps Director control of, and responsibility for, the money which Congress appropriates for the Peace Corps; and

(3) Possible simple amendments to the Peace Corps and Domestic Volunteer Service Acts intended to restore to the Peace Corps and to the President the organizational flexibility within the executive branch which the Congress originally envisaged for the Peace Corps.

Before making this choice, I reviewed carefully the option of placing Peace Corps within IDCA, as proposed in the House amendment to the foreign assistance authorization bill, with insulation intended to protect its autonomy. This would offer the advantage of closer linkage to other United States government overseas development efforts. But I am reluctant to reverse the precedent established by President Kennedy that the Peace Corps' overseas functions should not be directly linked to other U.S. overseas operations. Autonomy within IDCA might work at the Washington level but lead to pressure for common administrative and support arrangements overseas. Moreover, if Peace Corps policy is determined by an oversight board, the pressures to provide similar insulation to the Institute for Scientific and Technological Cooperation would increase, with the potential of greatly weakening the position of the IDCA Director. On the other hand, if Peace Corps is not so protected, its character as a unique American presence overseas may appear threatened and its supporters may oppose the whole IDCA proposal.

As the Congress long ago realized, the Peace Corps is more than just development assistance. It is a special expression of the American commitment to voluntary action. That commitment can complement other overseas development assistance programs, but it has important dimensions which relate to our similar commitment at home through VISTA and the Older Americans Volunteer Programs. My decision was thus also affected by my determination that the domestic ACTION volunteer programs be maintained and strengthened, and a concern hat the character of these programs might be changed if they were placed in other agencies.

Additionally, by establishing Peace Corps' autonomy within ACTION we can maintain the advantages of co-location of programs that draw volunteers from like-minded people of all ages in American society, and address similar types of problems at home and abroad. Moreover, an intact ACTION may be an important resource as the Congress and the Administration work together to develop proposals for strengthening the Nation's commitment to voluntary service, including partnership arrangements between the government and the private voluntary sector.

Finally, establishing the Peace Corps as an autonomous entity within ACTION offers a substantial advantage in terms of the time it will take to implement the change to an autonomous Peace Corps which we all agree must take place.

I have asked Peace Corps Director-designate Celeste to take the lead in proposing to OMB and the ACTION leadership the means by which my decision to assure Peace Corps autonomy within ACTION should be carried out. He will be happy to provide you with further detail, and to keep you abreast with how the implementation is proceeding.

We look forward to working closely with your committee in the coming week, as you review this issue.

Sincerely,

JIMMY CARTER.

APPENDIX 6

OPERATING EXPENSES, INTERNATIONAL PROGRAMS (PEACE CORPS)—STATEMENT OF AUTHORIZATIONS AND APPROPRIATIONS FISCAL YEARS 1962–80

[In thousands]

Fiscal year	Original budget request	Amended budget	Authorized	Appropriated (including reappropriation)	Appropriation transfers [1]	Allocation from AID	Obligated as of end of period	Unobligated as of end of period	Reappropriated
1962	$40,000	--------	$40,000	$30,000	--------	--------	$29,496	$504	
1963	63,750	--------	63,750	59,000	$444	--------	54,692	3,864	--------
1964	108,000	$102,000	102,000	95,964	--------	--------	76,164	19,800	$3,864
1965	115,000	106,000	115,000	104,100	7	--------	85,449	18,644	17,000
1966	125,200	--------	115,000	114,100	--------	--------	113,173	927	12,100
1967	110,500	112,150	110,000	110,000	104	--------	104,525	5,371	--------
1968	124,400	118,700	115,700	107,500	--------	--------	106,846	654	--------
1969	112,800	--------	112,800	102,000	49	--------	100,301	1,650	--------
1970	109,800	101,000	98,450	98,450	--------	--------	90,776	7,674	--------
1971	98,800	94,500	94,500	90,000	--------	--------	84,978	5,022	--------
1972	71,200	82,200	77,200	72,500	--------	$2,600	75,037	63	--------
1973	88,027	--------	88,027	81,000	427	--------	80,560	13	--------
1974	77,000	--------	77,000	77,000	37	--------	76,949	14	--------
1975	82,256	--------	82,256	77,687	--------	--------	77,670	17	--------
1976	80,826	--------	88,468	81,266	--------	--------	77,041	(2)	--------
Transition quarter	25,729	--------	27,887	24,190	--------	--------	25,878	2,537	--------
1977	67,155	--------	81,000	80,000	--------	--------	79,975	25	--------
1978	74,800	89,513	87,544	86,234	--------	--------	86,145	89	--------
1979	95,135	100,358	112,424	[3] 95,000	--------	--------	--------	--------	--------
1980	105,404	--------	--------	--------	--------	--------	--------	--------	--------

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[1] Appropriation transfers are to GSA for all years except fiscal year 1973. In fiscal year 1973, $158,000 was transferred to GSA and $269,000 was transferred to operating expenses, domestic programs (Public Law 93–50; 87 Stat. 99).

[2] $4,225,000 carried into the transition quarter.

[3] Excludes $958,000 civilian pay raise supplemental and $4,400,000 program supplemental.

Source: ACTION.

APPENDIX 7

Peace Corps: Volunteer Years—1961–79

Program year:	
1961	484
1962	3,578
1963	[1] 6,391
1964	[2] 10,494
1965	[2] 12,892
1966	[4] 9,587
1967	[4] 11,645
1968	[4] 11,784
1969	[4] 10,229
1970	[4] 8,209
1971	[1] 6,486
Fiscal year:	
1972	6,632
1973	6,194
1974	6,489
1975	6,652
1976	5,825
1977	5,590
1978	6,017
1979 [3]	6,024

[1] Volunteer strength.
[2] Volunteer and trainee strength.
[3] Estimated.
[4] Received Living Allowance.

Source: ACTION.

APPENDIX 8

Number of Peace Corps host countries 1962–78

1962	35	1971	66
1963	45	1972	65
1964	47	1973	65
1965	48	1974	70
1966	52	1975	70
1967	62	1976	65
1968	66	1977	62
1969	69	1978	63
1970	67		

Source: ACTION.

APPENDIX 9

VISTA APPROPRIATIONS AND NUMBER OF VOLUNTEERS

[Dollar amounts in thousands]

Year	Appropriation	Amount obligated	Volunteers and trainees (volunteer service years)[1]
1965	$3,000	$3,000	136
1966	16,000	16,000	1,948
1967	26,000	26,000	3,560
1968	30,000	30,000	4,275
1969	32,800	32,800	4,790
1970	35,300	35,300	4,494
1971	36,400	36,400	4,502
1972	37,000	22,889	4,297
1973	25,249	25,190	4,244
1974	22,300	[2] 21,955	[2] 4,376
1975	23,250	23,193	4,672
1976	22,300	22,300	4,261
1977	23,000	23,300	4,635
1978	25,350	25,350	4,500
1979	25,350	25,350	4,900

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[1] Average number of volunteers on board at any time during the year.

[2] The fiscal year 1974 obligation is less than that in fiscal year 1973 yet number of volunteers increased. This is due t
cutback in evaluation research and training costs in fiscal year 1974.

Source: Congressional Research Service, Library of Congress.

APPENDIX 10

RETIRED SENIOR VOLUNTEER PROGRAM APPROPRIATION'S AND NUMBER OF VOLUNTEERS

[Dollar amounts in thousands]

	Appropriation [1]	Projects	Volunteers
Fiscal year:			
1971	$500	11	(1)
1972	15,000	300	8,500
1973	15,000	590	65,000
1974	15,000	666	116,971
1975	15,980	663	149,602
1976	17,500	680	205,022
1977	19,000	689	228,000
1978	20,000	684	250,000
1979 [2]	20,000	682	250,000

[1] 1st year grants were awarded. Volunteers had not been recruited.
[2] Operating on a continuing resolution.

Source: Congressional Research Service, Library of Congress.

APPENDIX 11

FOSTER GRANDPARENT PROGRAM APPROPRIATIONS AND NUMBER OF VOLUNTEERS

[Dollar amounts in thousands]

	Appropriation	Projects	Volunteers
Fiscal year:			
1966	$5,000	33	782
1967	5,563	63	2,800
1968	9,380	68	4,000
1969	8,968	68	4,100
1970	9,250	68	4,200
1971	10,000	67	4,221
1972	25,000	133	4,703
1973	25,000	147	9,073
1974	25,000	156	12,193
1975	30,000	157	13,627
1976	31,927	184	13,934
1977	34,000	193	14,700
1978	35,400	195	16,500
1973[1]	35,400	195	16,500

[1] Operating on a continuing resolution.

Source: Congressional Research Service, Library of Congress.

APPENDIX 12

SENIOR COMPANION PROGRAM APPROPRIATIONS AND NUMBER OF VOLUNTEERS

[Dollar amounts in thousands]

	Appropriation	Projects	Volunteers [1]
Fiscal year:			
1974	(2)	18	(3)
1975	(2)	18	1,028
1976	$3,640	46	1,632
1977	3,800	46	2,600
1978	7,000	50	3,095
1979 [4]	9,140	50	3,095

[1] September 30.
[2] Funding came from the appropriation for the foster grandparent program also administered by ACTION.
[3] Volunteers not recruited yet.
[4] Operating on a continuing resolution.

Source: Congressional Research Service, Library of Congress.

APPENDIX 13

UNIVERSITY YEAR FOR ACTION APPROPRIATIONS AND NUMBER OF VOLUNTEERS

[In fiscal years; thousands of dollars]

	1972	1973	1974	1975	1976	1977	1978	1979	May 1979
Operating budget	4,281	8,973	6,841	6,453	6,036	6,570	4,950	4,950	-------
Volunteers (man-years)	567	1,208	1,600	1,660	1,532	1,284	1,000	1,000	-------
Participating schools	23	43	54	59	68	58	51	51	

Source: Congressional Research Service, Library of Congress.

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Calendar No. 214

96th Congress } **SENATE** { **Report**
1st Session } { **No. 96-200**

INDUSTRIAL COST RECOVERY

June 5 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Muskie, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 901]

The Committee on Environment and Public Works, to which was referred the bill (S. 901) to amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

General Statement

In the 1972 Federal Water Pollution Control Act Amendments, Congress included the industrial cost recovery provision to assure that industrial participants in municipal treatment plants repaid the share of the Federal construction cost attributable to the treatment of their industrial wastes. In this way, the Federal Government would not be subsidizing capital construction costs for industrial waste treatment through the water pollution control program.

The Senate report discussed this provision at some length:

> The bill would deal with industrial pollutants in this way: each industrial user of a public system would pay a charge that would include not only that share of operating and maintenance costs allocable to such user but which would also be sufficient to recover that portion of the Federal share of the capital cost of the facility allocable to such used. That portion of the Federal share of the capital cost allocable to each industrial user would be returned to the Federal treasury.
>
> The committee believes that this approach to the issue of industrial use of public facilities appeared to the committee to be the most reasonable and equitable one that can be devised. Any scheme that did not provide for full recovery of

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> the Federal share of capital costs allocable to industrial users would clearly constitute a Federal subsidy of private industry and, more particularly, of those industries that were so situated as to make use of public facilities and industries producing wastes that are compatible with public treatment systems. Any other approach would discriminate unfairly against those industries which, for whatever reason, were unable to utilize public systems.

The House Report made the following statement:

> In connection with industrial users of publicly owned systems, the Committee desired to establish within the user charge system an arrangement whereby industrial users would pay charges sufficient to bear their fair portion of all costs including the share of Federal contributions of Federal contributions for capital construction attributable to that part of the cost of constructed facilities attributable to use by industrial sources. It is the Committee's view that it is inappropriate in a large Federal grant program providing a high percentage of construction funds to subsidize industrial users from funds provided by the taxpayers at large.

In the 1977 Clean Water Act Amendments, a new paragraph was added to section 204(b):

> (6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.

However, at the same time, the Congress believed that it was necessary to mandate a moratorium on industrial cost recovery payments to the Treasury, so that the Agency could conduct a study of the efficiency and need for such a provision. The Congress required that the study include an analysis of the impact of industrial cost recovery on rural communities and on industries in economically distressed areas or areas of high unemployment.

Industrial cost recovery payments to the Treasury will resume at the end of the 18-month moratorium, if Congress does not change the law. The moratorium expires on June 30, 1979. At that time, all the changes made to industrial cost recovery in the 1977 amendments would be fully implemented.

To fulfill the requirements of the 1977 amendments, the Environmental Protection Agency contracted with Coopers and Lybrand, a Washington, D.C. consulting firm, to examine issues associated with the industrial cost recovery position. The report was submitted to the Congress by Douglas Costle, the Administrator of the Environmental Protection Agency, January 25, 1979. In his letter accompanying the final study, the Administrator stated that "this study was conducted with the fullest public participation achieved to date by EPA in any major study." The Agency further stated that a broad spectrum of industrial, environmental, civic and governmental organizations were actively involved throughout the study. An industrial cost recovery advisory group was formed, composed of approximately 40 individuals who represented this spectrum of viewpoints. Information was gathered from 227 sanitary agencies and 394 industrial plants. Ten regional public hearings were held on draft report findings during the fall months of 1978. These regional meetings often included interview sessions with affected communities' officials, with regional Environmental Protection Agency representatives present.

The study was based on questionnaires sent to industry and Government officials, as well as interviews with both groups. This information was then placed in a computer, and a simulation analysis was conducted, which attempted to discern how companies would behave if their decisions were based completely on economic information and rested on no other factors.

Because approved industrial cost recovery systems had been in effect for only a short time prior to the moratorium, total industrial collections were less than $2 million by the end of 1977. At the same time, several communities had collected some industrial cost recovery or had their industrial cost recovery systems ready to go. Questionnaires to industry necessarily concentrated not only on the past effects of industrial cost recovery, but also on the probable future effects of the provision.

The contractor's report reached one major conclusion: the industrial cost recovery provisions of Public Law 92–500 have not accomplished their legislative purposes.

Specifically, the report found that (1) industrial cost recovery funds returned to the grantee do not significantly contribute towards the grantees capability to finance future expansion, upgrading or replacement of waste-water treatment works; (2) changes in the tax law and Internal Revenue Service regulations since 1972 have decreased the extent to which the construction grants program is likely to be used as a subsidy to industries utilizing publicly-owned treatment works; (3) that the substantial water conservation which has occurred among industrial users since the 1972 law was enacted is due to the proportionate user charge, rather than industrial cost recovery; and (4) industrial cost recovery has had little apparent influence on industries' decisions regarding industrial capacity in a treatment works.

The study estimates that the total industrial cost recovery revenues collected would be an average of $60 million per year when all publicly-owned treatment works funded under the authorization of the 1972 law and the 1977 amendments are in place. Only half of this amount will be returned to the Federal Treasury. This amount is substantially below the estimates made in 1972. Further, the study suggested that industrial cost recovery has been and will be difficult to manage for both grantees and the Environmental Protection Agency.

While the report raises many questions, it cannot yet serve as the basis for final legislation. In light of the concerns raised by that report, and the fact that the moratorium deadline is near, the committee feels that it is necessary to extend the moratorium. This will give the Congress time to fully assess the study, the impact of industrial cost recovery, and develop further information necessary to make a decision on the efficacy of the provision.

Many unanswered questions follow from the statements made in the report. Some of these lead to questions about the validity of some of the findings in the report. The Senate Public Works Committee estimated in 1972 that half of the $18 billion in construction would be for industrial waste treatment. The Coopers-Lybrand study more or less confirmed that 50 percent estimate. The report claims that 55 percent of waste water revenues come from the nonresidential sector.

If this is accurate, then it would be logical to expect that a high proportion of the nearly $45 billion Federal investment in pollution control facilities would be recovered under the industrial cost recovery provision. Yet the study estimates that only $1.8 billion will be collected, of which less than $1 billion will be returned to the Federal Treasury. There is inadequate explanation of the gap between these figures. How much of this non-recovery of capital costs is due to failure to comply with the law in the grant approval process?

The Environmental Protection Agency has provided the committee a lower estimate of the percentage of industrial use of municipal systems, based on its 1978 needs survey. The question of whether such different views on a fundamental issue undermine other conclusions reached in the report needs a thorough investigation.

The report predicts that many industries in the future are likely to choose to build their own treatment systems rather than join a municipal system. The principal reason given is the economic effect of tax code changes that have occurred. Yet, it would appear that there are many industries that would have difficulty in raising the capital to build a separate treatment system, or might not have profits large enough to take advantage of the new tax provisions, or might be limited by the physical location of the plant.

Because the findings of the report rest in a significant way on estimates of future behavior based on projections on very limited data, it is important to provide adequate answers to questions that flow from this initial report.

The Environmental Protection Agency submitted further comments on the report in a letter April 10. That letter states the following regarding the Coopers and Lybrand Report and action to be taken regarding the report:

> The report did not evaluate the character of the statutory ICR program against alternatives which might enable the provision to achieve its intended purposes. Such an analysis would be a most important base of information on which Congress could then make judgments on whether or not the ICR program should be allowed to (a) commence under its present authorization; (b) amended to make adjustments; or (c) repealed as a condition of the construction grants assistance.
>
> The administration does not believe that sufficient information is available to adivse Congress on the appropriate set of alternative actions at this time.
>
> Therefore, the administration takes the position that the Congress should extend the present moratorium on the ICR program for an additional 2 years, during which time the

administration will evaluate the present ICR report against options which might allow it to carry out its statutory purposes.

COMMITTEE ACTION

Thus, further information will prove helpful to the committee in evaluating industrial cost recovery and possible alternatives. This is in recognition of the fact that the legislative purposes stated in 1972 are good objectives. The committee therefore ordered reported an amended version of S. 901. The bill extends the existing moratorium created by the 1977 amendments for an additional year. All aspects of the moratorium would remain as they now operate under the 1977 amendments. The moratorium would extend to June 30, 1980.

The Environmental Protection Agency is instructed to further examine the industrial cost recovery provision and issues related to its implementation. Such analysis should take into account the desirability of industries joining municipal treatment works. The Agency should be ready to come forward with legislative recommendations regarding industiral cost recovery by October 1, 1979.

The types of information needed to enable the committee to further evaluate the provision include:

1. An analysis of the possible effects of the changes made to industrial cost recovery by the Congress in 1977, including the 25,000 gallon per day sanitary waste, exclusion.
2. The efficacy of the EPA cost-effectiveness guidelines, mandated by the Clean Water Act, in restricting capacity of municipal plants. This should include an analysis of the control and payments already required by municipal-industrial agreements regarding additional industrial capacity.

The study should review various options in developing legislative recommendations for the committee's consideration. These include:

1. Continuing the present industrial cost recovery system along with any recommended modifications to make it more efficient;
2. Eliminating industrial cost recovery;
3. If industrial cost recovery is eliminated, any changes in the cost-effectiveness guidelines or other existing provisions to further legislative goals.

The study will investigate for each option the degree to which industry pays its way, the extent to which industrial participation in a municipal wastewater treatment system is encouraged or discouraged, and its administrative feasibility.

For the first option, the Agency should look at the possibility of graduating industrial cost recovery payments according to classes of dischargers or other means of distinguishing among dischargers. Additionally, for the second option, the study will assess how much industry cost recovery has been collected to date. Finally, EPA may wish to comment on how recent tax code changes affect the industrial cost recovery provisions ability to meet congressional objectives.

The Agency should be ready to present those views in a hearing later this year. The study to be conducted by the Environmental Protection Agency should be undertaken with close consultation with the committee.

HEARINGS

No hearings were held on this legislation. Because the industrial cost recovery provision would go back into effect on July 1, 1979, the committee felt it was necessary to act at this time. Hearings will be scheduled during the period of the moratorium extension.

COMMITTEE VOTES

The committee ordered the bill reported by unanimous voice vote May 10.

EVALUATION OF REGULATORY IMPACT

The bill would create no new regulatory impact. It would reduce the impact of regulation by delaying the effective date for implementation of the industrial cost recovery provision.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 15, 1979.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed a bill to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act Amendments of 1977, as ordered reported by the Senate Committee on Environment and Public Works, May 10, 1979.

Under the moratorium, as extended by this bill, local industries are excluded until June 30, 1980 from paying to the municipal grantee of a wastewater construction grant project their determined share of the cost of construction. It is expected that no additional cost to the Government will be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (f) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

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Calendar No. 215

96th Congress } SENATE { Report
1st Session } { No. 96-201

STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT OF 1979

June 6 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Hart, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H.R. 2154]

The Committee on Armed Services, to which was referred the bill (H.R. 2154) to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

Purpose of the Bill

The purpose of this bill is to revise and amend the Strategic and Critical Materials Stock Piling Act which provides for the acquisition and retention of stocks of certain strategic and critical materials in order to preclude, whenever possible, a dangerous and costly dependence by the United States upon foreign sources for supplies of such materials in times of national emergency and to provide for the timely disposal of such materials that are excess to the needs of the act.

Form of Committee Action

During the 95th Congress the committee considered and favorably reported H.R. 4895 (Rept. No. 95-846) which was essentially the same bill that is the subject of this report. Early in the 96th Congress, similar stockpile policy bills were introduced in both the House (H.R. 2154) and the Senate (S. 290). These bills were derived from the bill reported by the Armed Services Committee during the 95th Congress. The House acted rapidly and passed H.R. 2154 on March 21, 1979, and he bill was referred to the Senate Armed Services Committee. The ommittee chose to consider the House passed bill.

Committee Amendment

The committee amended the bill by adding a so-called sunset pro sion to the National Defense Stockpile Transaction Fund to requ that moneys remaining in the fund after three years would revert the Treasury as miscellaneous receipts.

Background

The committee has been concerned for some time that the strateg and critical materials stockpile program is in need of substantial u dating and revision. No significant additions to the stockpiles ha been made since 1959; the Congress has not authorized the release excess stockpiled materials since 1973. Stockpile policy has fluctuat sharply in recent years as successive administrations have changed t stockpile guidance frequently.

In the fall of 1976, President Ford announced a new stockpile polic basing goals for commodities to be stockpiled on a 3-year contingen and providing for a method of computing stockpile requirements th takes into account the many variables that affect commodity depen ence. Before this policy could be implemented, President Carter d clared a moratorium on all stockpile activity and directed a restud of stockpile policy. In September 1977, President Carter reaffirme the Ford stockpile policy with a reordering of priorities to addre the NATO wartime contingency as the highest priority.

Under this new stockpile policy which the committee endorses, th current stockpiles are badly out of balance. There are currently 9 different materials stockpiled with an estimated market value of $9. billion. Based on the current stockpile policy, 40 of the commoditi stockpiled are in quantities that exceed requirements; the estimate market value of these excess commodities is $4.6 billion. Conversely 53 commodities are short of estimated requirements; to acquire thes necessary materials to bring the stockpiles into balance will requir many years and expenditures that are estimated to exceed the valu of materials that are currently excess.

The Strategic and Critical Materials Stock Piling Act of 1939 (5 U.S.C. 98–98h), like the stockpiles themselves, is badly out of date. I has been modified numerous times and many provisions are now con fusing and conflicting. Therefore, the committee elected to completely revise and update the act to conform to current stockpile policy and t strengthen the role of the Congress in stockpile matters.

Summary of Committee Action

The Senate Armed Services Subcommittee on Military Construction and Stockpiles held oversight hearings on stockpile matters on September 9, 1977; in-depth hearings on March 8 and 9, 1978; and review hearings on March 19, 1979. Witnesses from the administration—Departments of State and Defense and the Federal Preparedness Agency of the General Services Administration—and from selected industries were heard. The subcommittee met on April 25, 1979, to develop markup recommendations for the committee, and by unanimous vote agreed to recommend to the committee the bill as contained in this report.

The Armed Services Committee met on June 6, 1979 to consider the recommendation of the Subcommittee on Military Construction and Stockpiles, and by a unanimous vote, agreed to report H.R. 2154, as amended, and recommend that the Senate consider it favorably.

SECTION-BY-SECTION ANALYSIS OF THE BILL

The bill contains four sections. Section 1 cites this act as the Strategic and Critical Materials Stock Piling Revision Act of 1979. Section 2 contains the revisions to existing law, 50 U.S.C. 98–98h and is discussed in more detail below. Section 3 revises previous stockpile references in law to conform with the proposed changes in the act and section 4 provides for an effective date of October 1, 1979, for any new budget authority. The following paragraphs are a section-by-section analysis of the changes to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) as contained in section 2 of the bill:

Section 1 retains the original title of the act—the Strategic and Critical Materials Stock Piling Act.

Section 2 sets forth the findings and purpose of the act. The key words in this section are "in times of national emergency". Economic stockpiles are not within the jurisdiction of the Armed Services Committee, and the national defense stockpile is designed only to protect and preserve the common defense and to deter an enemy who might otherwise be more inclined to provoke conflict if the United States could not demonstrate a clear capability to sustain our military-industrial base during a prolonged, general conflict.

Section 3 gives authority to the President to determine stockpile requirements and provides, for the first time, congressional guidance as to how these determinations are to be made. The committee expects that these determinations will be changed from time to time as underlying assumptions change and as technology dictates the obsolescence of some materials. The committee considers it very important, however, that three principles guide the President in making these determinations.

First, as expressed previously, these stockpiles are for the purpose of the common defense of the United States. They are not to be used as a means of controlling or influencing commodity prices and they are not to be sold off indiscriminately to produce receipts that offset other defense costs.

Second, the stockpiles are to be sized to meet a 3-year contingency. While the committee does not necessarily feel that a 3-year war is the most likely contingency that we may face, it is nevertheless a plausible scenario that must be addressed. Despite technological advances in weapons systems, the United States must be prepared for a protracted war, sustained at a high level that would stress our industrial capability. The committee supports the current stockpile policy that sets forth a priority system for reshaping the stockpiles in an orderly manner with first emphasis on those materials needed in the first year of a NATO contingency. However, the committee feels that the stockpiles should continue to be reshaped over the next several years to provide a tangible deterrent to any adversary who might question the "staying power" of the United States.

Third, the committee bill includes a provision designed to stabilize stockpile goals. The constant fluctuation of goals (formerly referred to as "objectives") in the past has been a constant source of irritation to the materials industries, causing market prices to vary speculatively. The committee feels that the stockpile goals are merely estimates that cannot be precisely accurate. Therefore to make numerous, small adjustments in the stockpile goals serves no purpose.

The committee has, therefore, provided that goals may not be revised unless the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed revision and the reasons for such revision at least 30 days before the effective date of such revision.

Section 4 constitutes the National Defense Stockpile by combining the three existing stockpiles into one for simplicity of management. In addition, a provision in the existing Stock Piling Act, requiring excess materials under the control of any Federal department or agency to be transferred to the national defense stockpile, is retained. Such transfers are to be made without reimbursement to the department or agency controlling the excess material, but all costs incident to the transfer are to be borne by the stockpile manager.

Section 5 deals with the authorizing legislation required to support stockpile operations. Basically the committee bill retains the provision in the existing Stock Piling Act that requires authorization by commodity by quantity before any excess commodity is released from the stockpile. In addition a requirement has been added that acquisitions of required materials also be authorized, except that acquisition authority will be by lump sum amount due to the market sensitivity of the commodity-quantity information.

While the acquisition of stockpile materials will require periodic specific authorization, appropriations for other routine stockpile functions such as maintenance, rotation, storage, refining, and processing of materials will continue to be authorized by a standing authorization, as is the case under existing law.

Subsection 5(a) concerns materials acquisition and requires authorization for appropriations for all acquisitions except those resulting from the processing, refining, or upgrading of existing stocks or for the rotation of stocks with a fixed "shelf life."

The committee will receive and examine the list of commodities that aggregate to the authorization sum. The committee recognizes that there may be some minor deviations from this list to accommodate market considerations; however, the committee would expect to be notified in advance of any significant deviations from that list and in no event will the total of acquisitions exceed the amount authorized.

Subsection 5(b) requires that all disposals, whether by direct sale or by barter, be authorized to include the commodity and the quantity of such commodity. Exceptions are granted for rotation sales, for sales of excess materials with a limited shelf life that might deteriorate if disposal were delayed seeking authorizing legislation, and for releases ordered by the President in time of national emergency or for the common defense.

Subsection 5(c) provides standing authority for routine stockpile operations which would then be subject only to annual appropriations requirements.

Section 6 concerns the management of the stockpile. It provides that the President shall designate the appropriate department or agency to manage the national defense stockpile and outlines those management responsibilities, and it provides guidance on acquisitions, disposals, and barter.

The committee has left the appointment of the appropriate management to the President because of the pending, publicly announced reorganization of Federal agencies involved in disaster assistance (the Federal Preparedness Agency, the Federal Disaster Assistance Agency, and the Defense Civil Preparedness Agency). The committee has no prejudice against the use of the Administrator of General Services to manage the stockpiles; to the contrary, industry and other Federal agencies have applauded the GSA stockpile management in the past and it may be entirely appropriate for the President to designate all or some part of the stockpile management effort to GSA in the future. The committee would, however, expect to be consulted on any new management arrangement.

The stockpile manager's duties include (1) acquisition of the necessary stockpile materials as may be authorized by law, (2) provision of the proper storage, maintenance, and security of stockpile materials, (3) accomplishing the necessary refining or upgrading of stockpile materials in order to put them in the form best suitable for stockpile purposes, (4) accomplishing the necessary rotation of stockpile materials, and (5) disposing of excess materials as may be authorized by law.

The committee has specified that procurements will be made in accordance with established Federal practice—as required by Federal procurement regulations—both to protect the interests of the Government and industry. The committee has added two special guidelines. First, the use of competitive bidding is to be maximized. The committee would expect only rare instances where competitive procedures re not appropriate and directs that all procurements made by other han publicly advertised or competitively negotiated procedures be ummarized in the semiannual report required by section 11. Second, he committee has required that acquisitions and disposal not unduly isrupt the usual commodity market. The committee recognizes that very stockpile transaction affects the commodity market to some deree; however, according to testimony, GSA has been extremely sucssful in the past at minimizing market impacts and the committee pects that record of performance to continue.

Likewise, the committee has specified guidance for disposals. Again, e committee directs that all disposal efforts accomplished by other an publicly advertised, competitively bid procedures be included in e semiannual report. An additional guideline has been provided for sposals, requiring that U.S. industry and consumers have first call n excess stockpile materials. The committee recognizes that there will ve to be exceptions to this guideline as well—for instance some cess commodities may only have foreign markets—but these exptions should be relatively rare. The committee directs that any ceptions to this guideline also be summarized in the semiannual port required by section 11.

Subsection 6(c) requires and encourages the use of barter as a means accomplishing stockpile transactions. No new barter authority is ated. The committee is seeking to revitalize the barter program ich has in the past resulted in the acquisition of stockpile materials in trade for surplus agricultural commodities, excess defense suppli etc., in accordance with other provisions of law.

The committee also noted that title IV of the Treasury, Postal Se ice, and General Government Appropriations Act, 1979 (Public L 95–429) contains a provision which makes excess materials contain in the inventory maintained under the Defense Production Act 1950, and excess materials in the national and supplemental stockpil available for transfer to pay the expenses of acquiring strategic a critical materials and for other stockpile functions. This same pr vision also authorizes the Government to acquire leasehold interests property for periods not in excess of 20 years, for the storage, securit and maintenance of materials in the stockpile. This leasing authori has been in GSA's Appropriation Acts since GSA's inception. Becau of the nature of the stockpile program, it is important to the manag ment of the stockpile to have long-term leasing authority. The co mittee believes that these provisions are highly meritorious a deserve to be incorporated into permanent law. Accordingly, secti 6(c)(2) and 6(e) would accomplish that objective.

Finally, subsection 6(d)(1) provides the President an escape clau if he finds for some reason he cannot accomplish a stockpile tran action in accordance with subsection 6(b). All such exceptions requi a report to the Armed Services Committees of Congress 30 days b fore they are undertaken.

Section 7 provides the authority for the disposition of the stockpil for their intended purpose. First, the President may order the use the stockpiles when in his judgment such use is required for the pu poses of national defense. Appropriately, releases have be authorized by the President previously in response to situations sho of a national emergency. For example, in 1956 and again 1959, releas of mercury from the stockpile were made to the Atomic Energy Com mission for the nuclear weapons production program when mercu was not available through commercial sources, and in 1973, quini was sold to pharmaceutical manufacturers with unfilled defense co tracts because the Vietnam war had depleted the commercial suppl The committee approves of such releases and has retained the languag of the original Stock Piling Act in that regard. Second, authority granted for the release of stockpiled materials during a period of n tional emergency that may be declared by the President or the Co gress. A new requirement has been added to require the President t report in writing any release under the authority of this section to th Armed Services Committees of Congress. The committee does n want to slow down the release process, but would expect notification soon as possible after the decision to release stockpile materials is mad

Section 8 is broad authority for the President to direct studies an investigations directed toward improving the readiness and the re liability of the stockpile. Similar authority is contained in the existin Stock Piling Act.

Section 9 the committee is mindful that the only objective of th Strategic and Critical Materials Stock Piling Act is to insure an ade quate supply of materials for the security of the Nation in a tim of national emergency. This section will assist in meeting that ob jective through the establishment, in the Treasury, of a separate fun to be known as the National Defense Stockpile Transaction Fund

The purpose of this fund is twofold: First, it earmarks receipts from stockpile sales for use in purchasing other necessary stockpile materials; and second, it provides a ready reference for analysis of the scope and status of stockpile activity.

The committee also believes that placing moneys received from the sale of stockpile materials into the separate fund, rather than in the general Treasury, will accomplish several beneficial objectives.

First, it will encourage the maintenance of a balanced stockpile. Since moneys in the fund can only be used for stockpile purposes, the acquisition of needed materials will be expedited rather than leaving moneys in the fund as unexpended balances.

Second, it will discourage the use of the stockpile for purposes other than that intended by the Strategic and Critical Materials Stock Piling Act.

Third, it will improve the management of the stockpile through an assured source of funds for future materials acquisition.

The committee further desires that stockpile transactions be reasonably balanced for the foreseeable future to minimize any impact on the taxpayer; that is, the requirement for funds for stockpile acquisitions should be approximately offset by receipts from the sale of excess stockpile materials. With over $4.6 billion in excess materials now on hand, this balanced transaction program should be possible for the next 5 to 7 years at least.

The committee has included a "sunset provision" to insure that receipts are not tied up for a prolonged period in the fund. Prudent fiscal management dictates such a sunset provision. The committee is confident that there will be little opportunity for receipts to languish in the fund. Acquisition requirements exceed the potential income from the sale of excess materials, and since both acquisitions and disposals must be authorized, the committee can exercise control of the fund balance during its consideration of periodic commodity authorization legislation.

Section 10 provides for the establishment of advisory committees under the provisions of the Federal Advisory Committee Act to assist and advise on stockpile operations. The committee considers this provision necessary in order that industry representatives will be involved in stockpile matters. Activities of advisory committees will be reported in the periodic report required by section 11.

Section 11 retains the existing requirement for a report to the Congress on stockpile operations every 6 months. The committee commends GSA on the quality and content of reports that have been submitted in the past. Reports under this bill are expected to contain the same information as has been provided in the past, and in addition, the following information will also be included:

(1) Reasons for any revised goal determinations made under the provisions of section 3(c);

(2) Departures from the preferred form of stockpile transactions as provided for in section 6(b) as mentioned elsewhere in this report;

(3) A summary of barter transactions as encouraged by section 6(c)(1);

(4) A discussion of the status of the fund as required by section 11 (It is not the intent of the committee in setting this report-

ing requirement to cause the stockpile manager to release budgetary information in advance of established release dates, rather the committee is interested only in best available estimates of the scope of future stockpile transactions.) ; and

(5) A review of the activities of advisory committees appointed pursuant to section 10.

Section 12 provides two key definitions. "Strategic and critical materials" are defined broadly enough to give the President adequate latitude in selecting commodities to be stockpiled so long as they are required for a national emergency situation. The committee intends for stockpiled materials to be essentially in the form that the 93 commodities exist today—raw and refined materials in a form best suited for storage and best suited for use during a time of national emergency. It is not intended that the stockpile include "end products," since such items are likely to become obsolete before they are required. The form of the material to be stored must also consider (1) the form capable of being handled and processed by current U.S. industry technology, (2) the form that minimizes energy demand consistent with other variables, and (3) the form that anticipates defense requirements during a national emergency.

The term "national emergency" means a general declaration of emergency with respect to the national defense made by the President or the Congress. It should be noted that the term "national defense" includes the term "common defense" as used in the Stock Piling Act prior to this revision.

BUDGET ESTIMATE

The Congressional Budget Office has advised that this legislation has no direct budgetary impact. The report from the Congressional Budget Office follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC., May 10, 1979.

Hon. GARY HART,
Chairman, Subcommittee on Military Construction and Stockpiles, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request, the Congressional Budget Office has reviewed H.R. 2154, the Strategic and Critical Materials Stock Piling Revision Act of 1979, as ordered reported by the Subcommittee on Military Construction on April 23, 1979. The bill would have no net budget impact.

Section 5 restates existing authority except for requiring specific authorization for appropriation for acquisition of materials.

Section 6 authorizes the President to acquire leasehold interests in property and provides that certain materials, the disposition of which has been authorized, may be used for barter to acquire stockpile materials or services incident to maintenance of the stockpile. Barter transactions are not recorded in the budget. This differs from the budget presentation under current law, where budget authority and outlays are associated with the acquisition of materials and services and offsetting receipts are associated with the disposition of materials.

The bill also creates a special account, the National Defense Stockpile Transaction Fund, which would be designated to receive all pro-

ceeds from the disposition of stockpile materials. For a 3-year period
moneys in the account would be available, upon authorization and
appropriation, for the acquisition of stockpile materials only. The
special account would have the effect of "earmarking" receipts from
the disposition of materials for future stockpile acquisition. The crea-
ion of the special account will not affect total budget authority or
utlays, or change any budget function or subfunction totals.

Sincerely,

ALICE M. RIVLIN,
Director.

POSITION OF THE ADMINISTRATION

The position of the administration regarding this bill is contained
n the following letter from the Director of the Office of Management
nd Budget:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 20, 1979.

Ion. GARY HART,
nited States Senate,
ashington, D.C.

DEAR SENATOR HART: I am writing to express the administration's
ncerns about the bills to revise the Strategic and Critical Materials
ock Piling Act (H.R. 2154 and S. 290) which are pending before
e Congress.

Our major concern relates to those provisions which would establish
e National Defense Stockpile Transaction Fund. As presented in
ese two bills, the fund would be the depository for all receipts from
e sale of stockpile materials, with these funds to be used only for
e acquisition of new or replacement stockpile materials. The admin-
ration has no objection to this arrangement per se, although we feel
s generally in the best interests of the Government to preserve finan-
l flexibility by avoiding the earmarking of receipts for specific
rposes whenever possible. This general policy notwithstanding, the
esident last year agreed to the establishment of such a fund, pro-
ed that receipts which remained unappropriated for 2 years would
ert to the Treasury as miscellaneous receipts. Both the General
vices Administration and the Department of Defense, in recent
imony on the current stockpile bills, have reiterated this adminis-
ion position. We were disappointed to see, then, that the version
H.R. 2154 which was passed by the House did not contain any
vision for the reversion of unappropriated funds. If this bill were
e enacted into law, receipts from stockpile sales would be available
ly for stockpile acquisitions, without time limit. This elimination
ll flexibility with respect to the use of these funds is contrary to
informal agreement that was reached last year on the fund, and
t acceptable to the administration.

ccordingly, enactment of H.R. 2154 in its present form would not
n accord with the program of the President.

e note, however, Congressman Bennett's statement in subcommit-
earings to the effect that he would consider retaining the 3-year
rsionary period contained in the Senate version of the bill (S. 290)

when it comes to conference. While this is longer than the agreed upon 2-year period, the administration would have no objection to this provision were it enacted by the Congress.

Our second concern is on an item of lesser importance, but one which may nevertheless be problematical. This is the reporting provision in section 11 of both bills which would have the President periodically report to Congress, among other things, "* * * the anticipated appropriations to be made from the [National Defense Stockpile Transaction] fund during the next fiscal year." While we interpret this to refer to the budget year, for which such information would normally be available, it is possible that the timing of the report (every 6 months) could result in a situation whereby the President would be required to release budget information in advance of the established release date. Such a requirement would significantly conflict with the confidentiality requirements of the budget process. Our presumption is that in this situation the budget projections which are forwarded to the Congress in the normal course of business would be the most timely data available and would satisfy the reporting requirements of the bills.

I would like to reiterate the administration's support for restructuring and improving the national stockpile to insure its utility for national security purposes.

Sincerely,

Jim McIntyre,
Director.

Other Amendments Considered

The committee had before it three amendments proposed by Senator Proxmire. The amendments are described below:

PROXMIRE AMENDMENT NO. 1 TO S. 290

Amendment to section 2 and section 13

On page 2, line 11, delete "industrial,".
On page 14, line 22, delete "industrial,".
On page 15, after line 3, add:

> (3) The term "essential civilian needs" means non-military needs which have a direct relationship to the military effort or which are basic to the well-being of the civilian population and which cannot be provided through substitution without a significant loss of utility.

Explanation: S. 290 defines "strategic and critical materials" to include "materials that (A) would be needed to supply the military, *industrial*, and essential civilian needs of the United States during a national emergency * * *." Amendment No. 1 would delete "industrial" from this definition. In effect, this would eliminate the "butter" from the current "guns and butter" stockpile policy. The provision for nonessential goods and services adds $6.3 billion to the cost of the stockpile. It is felt that our national security is well served by a stockpile which is limited to military and essential civilian needs. (The definition of "essential civilian needs" is consistent with its current usage by the Federal Preparedness Agency.)

PROXMIRE AMENDMENT NO. 2 TO S. 290

Amendment to section 7

On pages 9 and 10 delete the entire text of subsection 7(a) and insert:

> SEC. 7(a) Except as otherwise provided in this Act, materials acquired under this Act may be released for use, sale, or other disposition only on the order of the President or any officer or employee of the United States designated by the President to issue orders of release under this section—
>
> (1) In time of war declared by the Congress or during a national emergency proclaimed by the Congress or the President, if the President or his designee determines the release of such materials is required for purposes of the national defense; or
>
> (2) If (A) such materials are determined excess to stockpile requirements, (B) Congress has been notified 90 days in advance, and (C) the amount of any given material to be disposed of in any given month does not exceed the lesser of either (1) five percent of the stockpile excess of that material or (2) one percent of the average annual domestic consumption of that material computed over the previous three years.

Explanation: Subsection 7(a)(1) would reduce the potential abuse of the stockpile by the President by limiting the use of the stockpile to times of declared war and national emergency. Subsection 7(a)(2) would permit more rapid and dependable disposals of excess materials n cases where special interests have prevented timely disposal authorizations by Congress.

PROXMIRE AMENDMENT NO. 3 TO S. 290

mendment to section 5

On page 6, line 20, strike the period after "stockpile" and insert and payment of interest under subsection 5(d)".

On page 6, after line 23, insert:

> (d) Interest shall accrue on the current market value of the materials in the National Defense Stockpile commencing with the fiscal year beginning October 1, 1978. At the close of each fiscal year there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under subsection 5(c), an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this section. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal y[illegible] outstanding marketable obligations of the United [illegible] with one year remaining to maturity.

xplanation: A similar provision currently ap[illegible] materials d in the Defense Production Act inventory. It cos[illegible]ne Federal ernment money to finance existing stockpiles, and these costs ld be fully reflected in the appropriate agency budget. By reflecting the full costs of maintaining the inventory—not only maintenance and disposal but also financing costs—this provision would emphasize the need for the prompt disposal of surplus materials. This amendment would affect internal Government accounting only and would have no impact on taxes or the budget deficit.

During its consideration of the bill, the committee unanimously voted against consideration of these amendments for the following reasons:

Amendment No. 1.—The committee felt that to eliminate the industrial tier of the strategic stockpile would result in inadequate quantities of materials in the stockpile to meet the primary objective of the stockpile—to sustain the United States during a 3-year period in a national emergency.

Amendment No. 2.—The committee did not feel that the Congress should relinquish control over the disposal of excess stockpile materials. It is precisely this legislative requirement to authorize the disposal of excess materials that has kept the stockpiles from being sold off for budgetary purposes in the past. In addition the committee did not want to unduly restrict the authority of the President to use the stockpile for its intended purpose.

Amendment No. 3.—The committee felt that the requirement to ask for appropriations for interest computed on the value of the stockpile which would then be returned to the Treasury as miscellaneous receipts was an unnecessary administrative burden. The committee feels that adequate visibility will be afforded to stockpile costs through the twice yearly report to Congress. The committee noted that the Congress has never agreed to provide appropriations for a similar provision that applies to the Defense Production Act Inventory.

Regulatory Impact

Paragraph 5 of rule XXIX of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on such bill. The committee finds that in the case of H.R. 2154, as amended, there is no regulatory impact.

Changes in Existing Law

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows: Existing law to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.

STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT

AN ACT To provide for the common defense by acquiring stocks of strategic and critical materials essential to the needs of industry for the manufacture of supplies for the armed forces and the civilian population in time of a national emergency, and to encourage, as far as possible, the further development of strategic and critical materials within the United States for common defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the natural resources of the United States in certain strategic
nd critical materials being deficient or insufficiently developed to
pply the industrial, military, and naval needs of the country for
mmon defense, it is the policy of the Congress and the purpose and
tent of this Act to provide for the acquisition and retention of
ocks of these materials and to encourage the conservation and devel-
ment of sources of these materials within the United States, and
ereby decrease and prevent wherever possible a dangerous and
stly dependence of the United States upon foreign nations for
pplies of these materials in times of national emergency.

[Sec. 2. (a) To effectuate the policy set forth in section 1 hereof
Secretary of War, the Secretary of the Navy, and the Secretary of
Interior, acting jointly through the agency of the Army and Navy
nitions Board, are hereby authorized and directed to determine,
m time to time, which materials are strategic and critical under
provisions of this Act and to determine, from time to time, the
lity and quantities of such materials which shall be stock piled
ler the provisions of this Act. In determining the materials which
strategic and critical and the quality and quantities of same to
cquired the Secretaries of State, Treasury, Agriculture, and Com-
ce shall each designate representatives to cooperate with the
retary of War, the Secretary of the Navy, and the Secretary of
Interior in carrying out the provisions of this Act.

(b) To the fullest extent practicable the Secretary of War, the
retary of the Navy, and the Secretary of the Interior, acting
tly, shall appoint industry advisory committees selected from the
stries concerned with the materials to be stock piled. It shall be
general function of the industry advisory committees to advise
the Secretary of War, the Secretary of the Navy, and the Secre-
of the Interior and with any agencies through which they may
ise any of their functions under this Act with respect to the
hase, sale, care, and handling of such materials. Members of the
stry advisory committees shall receive a per diem allowance of not
ceed $10 for each day spent at conferences held upon the call of
ecretary of War, the Secretary of the Navy, and the Secretary
e Interior, plus necessary traveling and other expenses while so
ged.

ec. 3. The Secretary of War and the Secretary of the Navy shall
the Secretary of the Treasury, through the medium of the
rement Division of his Department, to—

[(a) make purchases of strategic and critical materials with
ue regard to the objectives set forth in section 1 of this Act and
ursuant to the determinations as provided in section 2 hereof,
hich purchases (1) shall be made, so far as is practicable, from
pplies of materials in excess of the current industrial demand
d (2) shall be made in accordance with title III of the Act of
arch 3, 1933 (47 Stat. 1520), but may be made without regard
section 3709 of the Revised Statutes. A reasonable time (not
exceed one year) shall be allowed for production and delivery
om domestic sources and in the case of any such material avail-
le in the United States but which has not been developed

commercially, the Secretary of War and the Secretary of the Navy may, if they find that the production of such material is economically feasible, direct the purchase of such material without requiring the vendor to give bond;

[(b) provide for the storage, security, and maintenance of strategic and critical materials for stock-piling purposes on military and naval reservations or other locations, approved by the Secretary of War and the Secretary of the Navy;

[(c) provide through normal commercial channels for the refining or processing of any materials acquired or transferred under this Act when the Secretary of War and the Secretary of the Navy deem such action necessary to convert such materials into a form best suitable for stock piling, and such materials may be refined, processed, or otherwise beneficiated either before or after their transfer from the owning agency;

[(d) provide for the rotation of any strategic and critical materials constituting a part of the stock pile where necessary with equivalent quantities of substantially the same material with the approval of the Secretary of War and the Secretary of the Navy;

[(e) dispose of any materials pursuant to this Act which are no longer needed because of any revised determination made pursuant to section 2 of this Act, as hereinafter provided. No such disposition shall be made until six months after publication in the Federal Register and transmission of a notice of the proposed disposition to the Congress and to the Military Affairs Committee of each House thereof. Such notice shall state the reasons for such revised determination, the amounts of the materials proposed to be released, the plan of disposition proposed to be followed, and the date upon which the material is to become available for sale or transfer. The plan and date of disposition shall be fixed with due regard to the protection of the United States against avoidable loss on the sale or transfer of the material to be released and the protection of producers, processors, and consumers against avoidable disruption of their usual markets: *Provided*, That no material constituting a part of the stock piles may be disposed of without the express approval of the Congress except where the revised determination is by reason of obsolescence of that material for use in time of war. For the purposes of this paragraph a revised determination is by reason of obsolescence if such determination is on account of (1) deterioration, (2) development or discovery of a new or better material or materials, or (3) no further usefulness for use in time of war.

[SEC. 4. The Secretary of War and the Secretary of the Navy shall submit to the Congress, not later than six months after the approval of this Act, and not less often than twice annually thereafter a written report detailing the activities with respect to stock piling under this Act, including a statement of foreign and domestic purchases, and such other pertinent information on the administration of the Act as will enable the Congress to evaluate its administration and the need for amendments and related legislation.

[SEC. 5. The stock piles shall consist of all such materials heretofore purchased or transferred to be held pursuant to this Act, or hereafter transferred pursuant to section 6 hereof, or hereafter purchased pursuant to section 3 hereof, and not disposed of pursuant to this Act. Except for the rotation to prevent deterioration and except for the disposal of any material pursuant to section 3 of this Act, materials acquired under this Act shall be released for use, sale, or other disposition only (a) on order of the President at any time when in his judgment such release is required for purposes of the common defense, or (b) in time of war or during a national emergency with respect to common defense proclaimed by the President, on order of such agency as may be designated by the President.

[Sec. 6. (a) Pursuant to regulations issued by the War Assets Administration or its successor, every material determined to be strategic and critical pursuant to section 2 hereof, which is owned or contracted for by the United States or any agency thereof, including any material received from a foreign government under an agreement made pursuant to the Act of March 11, 1941 (55 Stat. 31), as amended, or other authority, shall be transferred by the owning agency, when determined by such agency to be surplus to its needs and responsibilities, to the stock piles established pursuant to this Act, so long as the amount of the stock pile for that material does not exceed the quantities determined therefor pursuant to section 2 hereof. There shall be exempt from this requirement such amount of any material as is necessary to make up any deficiency of the supply of such material for the current requirements of industry as determined by the Civilian Production Administration or its successor. There shall also be exempt from this requirement (1) any material which constitutes contractor nventory if the owning agency shall not have taken possession of uch inventory, (2) such amount of any material as the Army and Navy Munitions Board determines (i) are held in lots so small as to make the transfer thereof economically impractical; or (ii) do not meet or cannot economically be converted to meet, stock-pile requirements determined in accordance with section 2 of this Act. The total aterial transferred to the stock piles established by this Act in acordance with this section during any fiscal year beginning more than elve months after this Act becomes law shall not exceed in value (as etermined by the Secretary of the Treasury on the basis of the fair arket value at the time of each transfer) an amount to be fixed by e appropriation Act or Acts relating to the acquisition of materials der this Act.

[(b) Any transfer made pursuant to this section shall be made witht charge against or reimbursement from the funds available under s Act, except that expenses incident to such transfer may be paid or mbursed from such funds, and except that, upon any such transfer m the Reconstruction Finance Corporation, or any corporation ornized by virtue of the authority contained in the Act of January 22, 32 (47 Stat. 5), the Secretary of the Treasury shall cancel notes of construction Finance Corporation, and sums due and unpaid upon in connection with such notes at the time of such cancellation, in amount equal to the fair market value as determined by the Secrey of the Treasury of the material so transferred.

(c) Effective whenever the Secretary of the Treasury shall cancel notes pursuant to subsection (b) of this section, the amount of s, debentures, bonds, or other such obligations which the Reconstruction Finance Corporation is authorized and empowered to have outstanding at any one time under the provisions of existing law shall be deemed to be reduced by the amount of the notes so canceled.

[(d) Subsection (b) of section 14 of the Act of October 3, 1944 (58 Stat. 765), is hereby amended to read as follows:

["(b) Subject only to subsection (c) of this section, any owning agency may dispose of—

> ["(1) any property which is damaged or worn beyond economical repair;
>
> ["(2) any waste, salvage, scrap, or other similar items;
>
> ["(3) any product of industrial, research, agricultural, or livestock operations, or of any public works construction or maintenance project, carried on by such agency;

which does not consist of materials which are to be transferred in accordance with the Strategic and Critical Materials Stock Piling Act to the stock piles established pursuant to the Act."

["(e) Section 22 of the Act of October 3, 1944 (58 Stat. 765), is hereby repealed: *Provided*, That any owning agency as defined in that Act having control of materials that, when determined to be surplus, are required to be transferred to the stock piles pursuant to subsection (a) hereof, shall make such determination as soon as such materials in fact become surplus to its needs and responsibilities.

[SEC. 7. (a) The Secretary of the Interior, through the Director of the Bureau of Mines and the Director of Geological Survey, is hereby authorized and directed to make scientific, technologic, and economic investigations concerning the extent and mode of occurrence, the development, mining, preparation, treatment, and utilization of ores and other mineral substances found in the United States or its Territories or insular possessions, which are essential to the common defense or the industrial needs of the United States, and the quantities or grades of which are inadequate from known domestic sources, in order to determine and develop domestic sources of supply, to devise new methods for the treatment and utilization of lower grade reserves, and to develop substitutes for such essential ores and mineral products; on public lands and on privately owned lands, with the consent of the owner, to explore and demonstrate the extent and quality of deposits of such minerals, including core drilling, trenching, test-pitting, shaft sinking, drifting, cross-cutting, sampling, and metallurgical investigations and tests as may be necessary to determine the extent and quality of such deposits, the most suitable methods of mining and beneficiating them, and the cost at which the minerals or metals may be produced.

[(b) The Secretary of Agriculture is hereby authorized and directed to make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 2 of this Act to be strategic and critical or substitutes therefor.

[SEC. 8. For the procurement, transportation, maintenance, rotation, storage, and refining or processing of the materials to be acquired under this Act, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as the Congress, from time to time, may deem necessary to carry out the provisions of this Act. The funds so appropriated, including the funds heretofore appropriated, shall remain available to carry out the purposes for which appropriated until expended, and shall be extended under the joint direction of the Secretary of War and the Secretary of the Navy.

[SEC. 9. Any funds heretofore or hereafter received on account of sales or other dispositions of materials under the provisions of this Act, except funds received on account of the rotation of stocks, shall be covered into the Treasury as miscellaneous receipts.]

SHORT TITLE

SECTION 1. This Act may be cited as the "Strategic and Critical Materials Stock Piling Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that the natural resources of the United States in certain strategic and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this Act to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources for supplies of such materials in times of national emergency.

MATERIALS TO BE ACQUIRED: PRESIDENTIAL AUTHORITY AND GUIDELINES

SEC. 3. (a) The President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this Act, and (2) the quality and quantity of each such materials to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 4 of this Act, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the "stockpile").

(b) The President shall make the determinations required to be made under subsection (a) on the basis of the following principles:

(1) The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes.

(2) The quantities of the materials stockpiled should be sufficient to sustain the United States for a period of not less than three years in the event of a national emergency.

(c) The quantity of any material to be stockpiled under this Act, as determined under subsection (a), may not be revised unless the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed revision and the reasons for such revision at least thirty days before the effective date of such revision.

MATERIALS CONSTITUTING THE NATIONAL DEFENSE STOCKPILE

SEC. 4. (a) The stockpile consists of the following materials:

(1) Materials acquired under this Act and contained in the national stockpile on the day before the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

(2) Materials acquired under this Act on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

(3) Materials in the supplemental stockpile established by section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (as in effect from September 21, 1959, through December 31, 1966) on the day before the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

(4) Materials acquired by the United States under the provisions of section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 663 of the Foreign Assistance Act of 1961 (22 U.S.C. 2423) that have been determined to be strategic and critical materials for the purposes of this Act and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of section 103(a) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes", approved August 28, 1954 (7 U.S.C. 1743(a)), and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 103(a) of such Act of August 28, 1954.

(9) Materials transferred to the stockpile under subsection (b).

(b) Notwithstanding any other provision of law, any material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is required for the stockpile shall be transferred to the stockpile. Any such transfer shall be made without reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this Act.

AUTHORITY FOR STOCKPILE OPERATIONS

SEC. 5. (a) Except for acquisitions made under the authority of paragraph (3) or (4) of section 6(a), no funds may be obligated or appropriated for acquisition of any material under this Act unless funds *for such acquisition have been authorized by law. Funds appropriated for such acquisition (and for transportation related to such acquisition) shall remain available for a period of five fiscal years, if so provided in appropriations Acts.*

(b) Except for disposals made under the authority of paragraph (4) or (5) of section 6(a) or under section 7(a), no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available to carry out the purposes for which appropriated for a period of two fiscal years, if so provided in appropriation Acts.

STOCKPILE MANAGEMENT

Sec. 6. (a) The President shall—

(1) acquire the materials determined under section 3(a) to be strategic and critical materials;

(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

(3) provide for the refining or processing of any material in the stockpile when necessary to convert such material into the form most suitable for storage and subsequent disposition;

(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration of such material by replacement of such material with an equivalent quantity of substantially the same material;

(5) subject to the notification required by subsection (d)(2), provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

(6) dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Except as provided in subsections (c) and (d), acquisition of rategic and critical materials under this Act shall be made in ac- rdance with established Federal procurement practices, and, except provided in subsections (c) and (d) and in section 7(a), disposal materials from the stockpile shall be made by formal advertising competitive negotiation procedures. To the maximum extent sible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials;

(2) efforts shall be made in the acquisition and disposal of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss; and

(3) disposal of such materials shall be made for domestic consumption.

c)(1) The President shall encourage the use of barter in the acqui- on of strategic and critical materials for, and the disposal of mate- s from, the stockpile when acquisition or disposal by barter is *authorized by law and is practical and in the best interest of the United States.*

(2) Materials in the stockpile, the disposition of which is authorized by law, shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of refining, processing, or rotating materials, under this Act.

(3) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d) (1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1), (2), or (3) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committees on Armed Services of the Senate and House of Representatives in writing of the proposed acquisition or disposal at least thirty days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a) (5) only if the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed disposal at least thirty days before any obligation of the United States is incurred in connection with such disposal.

(e) The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

SPECIAL DISPOSAL AUTHORITY OF THE PRESIDENT

SEC. 7. (a) Materials in the stockpile may be released for use, sale, or other disposition—

(1) on the order of the President, at any time the President determines the release of such materials is required for purposes of the national defense; and

(2) in time of war declared by the Congress or during a national emergency, on the order of any officer or employee of the United States designated by the President to have authority to issue disposal orders under this subsection, if such officer or employee determines that the release of such material is required for purposes of the national defense.

(b) Any order issued under subsection (a) shall be promptly reported by the President, or by the officer or employee issuing such order, in writing, to the Committees on Armed Services of the Senate and House of Representatives.

MATERIALS DEVELOPMENT AND RESEARCH

SEC. 8. (a) (1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, prepa-

ration, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, or in its territories or possessions, (B) are essential to the national defense, industrial, and essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

(2) Such investigations shall be carried out in order to—

(A) determine and develop new domestic sources of supply of such ores and mineral substances;

(B) devise new methods for the treatment and utilization of lower grade reserves of such ores and mineral substances; and

(C) develop substitutes for such essential ores and mineral products.

(3) Investigations under paragraph (1) may be carried out on public lands and, with the consent of the owner, on privately owned lands for the purpose of exploring and determining the extent and quality of deposits of such minerals, the most suitable methods of mining and beneficiating such minerals, and the cost at which the minerals or metals may be produced.

(b) The President shall make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 3(a) of this Act to be a strategic and critical material or substitutes therefor.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SEC. 9. (a) There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the "fund").

(b)(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 6(a) shall be covered into the fund. Such moneys shall remain in the fund until appropriated or until the end of the third fiscal year following the fiscal year in which they are received. Any such moneys remaining in the fund after the end of such third fiscal year that have not been appropriated shall be transferred to miscellaneous receipts of the Treasury. Any of such moneys that are appropriated shall be disbursed from the fund in the order in which they were covered into the fund.

(2) Moneys covered into the fund under paragraph (1) shall be available, when appropriated therefor, only for the acquisition of strategic and critical materials under section 6(a)(1) of this Act (and for transportation related to such acquisition).

(3) If so provided in appropriation Acts, moneys in the fund, when appropriated, shall remain available for a period of five fiscal years.

(c) All moneys received from the sale of materials being rotated under the provisions of section 6(a)(4) or disposed of under section 7(a) shall be covered into the fund and shall be available only for the acquisition of replacement materials.

ADVISORY COMMITTEES

SEC. 10. (a) The President may appoint advisory committees composed of individuals with expertise relating to materials in the stock-

pile or with expertise in stockpile management to advise the President with respect to the acquisition, transportation, processing, refining, storage, security, maintenance, rotation, and disposal of such materials under this Act.

(b) Each member of an advisory committee established under subsection (a) while serving on the business of the advisory committee away from such member's home or regular place of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

REPORTS TO CONGRESS

SEC. 11. The President shall submit to the Congress every six months a written report detailing operations under this Act. Each such report shall include—

(1) information with respect to foreign and domestic purchases of materials during the preceding six-month period;

(2) information with respect to the acquisition and disposal of materials under this Act by barter, as provided for in section 6(c) of this Act, during such period;

(3) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made from the fund during the next fiscal year; and

(4) such other pertinent information on the administration of this Act as will enable the Congress to evaluate the effectiveness of the program provided for under this Act and to determine the need for additional legislation.

DEFINITIONS

SEC. 12. For the purposes of this Act:

(1) The term "strategic and critical materials" means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) The term "national emergency" means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

SEC. [10.] *13.* Notwithstanding any other provision of law, on and after January 1, 1972, the President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in general headnote 3(d) of the Tariff Schedules of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law.

[SEC. 11. This Act may be cited as the "Strategic and Critical Materials Stock Piling Act."]

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ACT OF AUGUST 28, 1954

AN ACT To provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes

* * * * * * *

SEC. 103. (a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of title II of the Agricultural Trade Development and Assistance Act of 1954;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of title I of the Agricultural Trade Development and Assistance Act of 1954;

(3) Donation to school-lunch programs;

(4) Transfer to [the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98–98h)] *the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)*, without reimbursement from funds appropriated for the purposes of that Act;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States or to meet any national emergency declared by the President; and

(7) Sale for unrestricted use to meet a need for increased supplies
t not less than 105 per centum of the parity price in the case of agri-
ultural commodities and a price reflecting 105 per centum of the
arity price of the agricultural commodity in the case of products of
gricultural commodities.

The President shall prescribe such terms and conditions for the dis-
osal of commodities in the commodity set-aside as he determines will
rovide adequate safeguards against interference with normal mar-
tings of the supplies of such commodities outside the commodity set-
ide. Strategic materials acquired by the Commodity Credit Corpora-
n under paragraph (2) of this subsection shall be transferred to
he national stockpile established pursuant to the Act of June 7, 1939,
amended] *the National Defense Stockpile established by the Stra-*
ic and Critical Materials Stock Piling Act; and the Commodity
edit Corporation shall be reimbursed for the value of the commodi-
s bartered for such strategic materials from [funds appropriated
suant to section 8 of such Act of June 7, 1939] *funds appropriated*
the purposes of that Act; as amended. For the purpose of such
nbursement, the value of any commodity so bartered shall be the
er of the domestic market price or the Commodity Credit Corpora-
's investment therein as of the date of such barter, as determined
he Secretary of Agriculture.

) The quantity of any commodity in the commodity set-aside
l be reduced to the extent that the Commodity Credit Corporation
ntory of such commodity is reduced, by natural or other cause

beyond the control of the Corporation, below the quantity then charged to the commodity set-aside.

* * * * * * *

SEC. 105. The quantity of any commodity in the commodity set-aside or transferred from the set-aside to [the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98–98h)] *the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)* shall be excluded from the computation of "carryover" for the purpose of determining the price support level for such commodity under the Agricultural Act of 1949, as amended, and related legislation, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas under the Agricultural Adjustment Act of 1938, as amended, and related legislation. Until such time as the commodity set-aside has been completed, such quantity of the commodity as the Secretary shall determine between the maximum and minimum quantities specified in section 101 of this Act shall be excluded from the computations of "carryover" for the purpose of determining the price support level, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas, for the 1955 crop of the commodity, notwithstanding that the quantity so excluded may not have been acquired by the Corporation and included in the commodity set-aside.

* * * * * * *

SECTION 4 OF THE COMMODITY CREDIT CORPORATION CHARTER ACT

SEC. 4. GENERAL POWERS.—The Corporation—

(a) * * *

* * * * * * *

(h) May contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control. The Corporation shall have power to acquire personal property necessary to the conduct of its business but shall not have power to acquire real property or any interest therein except that it may (a) rent or lease office space necessary for the conduct of its business and (b) acquire real property or any interest therein for the purpose of providing storage adequate to carry out effectively and efficiently any of the Corporation's programs, or of securing or discharging obligations owing to the Corporation, or of otherwise protecting the financial interests of the Corporation: *Provided*, That the authority contained in this subsection (h) shall not be utilized by the Corporation for the purpose of acquiring real property, or any interest therein, in order to provide storage facilities for any commodity unless the Corporation determines that existing privately owned storage facilities for such commodity in the area concerned are not adequate: *Provided further*, That no refrigerated cold storage facilities shall be constructed or purchased except with funds specially provided by Congress for that purpose: *And provided further*, That nothing contained in this subsection (h) shall limit the duty of the Corporation, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in the warehousing of commodities: *And provided further,* That to encourage the storage of grain on farms, where it can be stored at the lowest cost, the Corporation shall make loans to grain growers needing storage facilities when such growers shall apply to the Corporation for financing the construction or purchase of suitable storage, and these loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers: *And provided further,* That to encourage the storage of dry or high moisture grain, soybeans, and rice, and high moisture forage and silage on farms, where the commodities can be stored at the lowest cost, the Corporation shall—during the period beginning October 1, 1977, and ending September 30, 1981—make secured storage facility loans not to exceed $50,000 to growers of such commodities in amounts not less than 75 per centum of the total construction cost of such facility, including but not limited to the cost of structural and equipment foundations, electrical systems, grain handling systems, drying equipment, and site preparation, or, in the discretion of the Corporation, such loans may be made in such amounts not to exceed $50,000 to cover remodeling costs of existing storage facilities, as are set forth in regulations issued by the Secretary; the size of such facility for which a loan is obtained shall be based upon the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period; such loans shall be for a period not to exceed ten years at an interest rate based upon the rate of interest charged the Corporation by the United States Treasury; and the loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers. Notwithstanding any other provision of law, the Commodity Credit Corporation is authorized, upon terms and conditions prescribed or approved by the Secretary of Agriculture, to accept strategic and critical materials produced abroad in exchange for agricultural commodities acquired by the Corporation. Insofar as practicable, in effecting such exchange of goods, normal commercial trade channels shall be utilized any priority shall be given to commodities easily storable and those which serve as price incentive goods to stimulate production of critical and strategic materials. The determination of the quantities and qualities of such materials which are desirable for stockpiling and the determination of which materials are strategic and critical shall be made in the manner prescribed by section [2] *3* of he Strategic and Critical Materials Stock Piling Act [(60 Stat. 596)] *50 U.S.C. 98a*). Strategic and critical materials acquired by Commodity Credit Corporation in exchange for agricultural commodities hall, to the extent approved by [the Munitions Board of the National ilitary Establishment] *the President* be transferred to the stock pile rovided for by the Strategic and Critical Materials Stock Piling Act; d when transferred to the stock pile the Commodity Credit Corpora- on shall be reimbursed for the strategic and critical materials so nsferred to the stock pile from the funds made available for the rpose of the Strategic and Critical Materials Stock Piling Act, in an amount equal to the fair market value, as determined by the Secretary of the Treasury, of the material transferred to the stock pile. Nothing contained herein shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such quantity of strategic and critical materials as it deems advisable in carrying out its functions and protecting its assets: *Provided*, That, notwithstanding any other provision of law, where a grain storage facility owned by the Corporation is not needed by the Corporation and, upon being offered for sale no person offers to pay the minimum price set by the Corporation for such facility for use in connection with storage or handling of agricultural commodities, then the Corporation may, without declaring such facility to be excess property, sell it by bids at not less than such minimum price to any public or private nonprofit agency or organization for use for the purposes of such agency or organization. This provision shall apply also to facilities which on the effective date of this Act have been declared excess to the needs of the Commodity Credit Corporation but have not been claimed by any other Government agency, or surplus to the needs of the Government but not disposed of pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

Section 303 of the Defense Production Act of 1950

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TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

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Sec. 303. (a) * * *

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(f) Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this act, shall be transferred to **[**the national stockpile established pursuant to the Act of June 7, 1939, as amended (50. U.S.C. 98–98h)**]** *the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)*, when the President deems such action to be in the public interest.

Transfers made pursuant to this subsection shall be made without charge against or reimbursement **[**from funds available under such act of June 7, 1939, as amended**]** *from funds appropriated for the purposes of such Act*, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304(b) of this Act, as

mended, shall be reduced in an amount equal to the amount of any
otes so canceled.

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ection 204 of the Federal Property and Administration Services Act of 1949

TITLE II—PROPERTY MANAGEMENT

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PROCEEDS FROM TRANSFER OR DISPOSITION OF PROPERTY

Sec. 204. (a) * * *

* * * * * * *

(f) Any executive agency entitled to receive cash under any con-
ct covering the lease, sale or other disposition of surplus property
y in its discretion accept in lieu of cash, any property determined
[the Munitions Board] *the President* to be strategic or critical ma-
al at the prevailing market price thereof at the time the cash pay-
t or payments became or become due.

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Calendar No. 216

96th Congress } SENATE { Report
1st Session } { No. 96–202

AUTHORIZING THE PRINTING OF THE REPORT ENTITLED "SPECIAL BRIDGE REPLACEMENT PROGRAM, EIGHTH ANNUAL REPORT TO CONGRESS" AS A SENATE DOCUMENT

June 6 (legislative day May 21), 1979.—Ordered to be printed

Mr. Pell, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 161]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 161) authorizing the printing of the report entitled "Special Bridge Replacement Program, Eighth Annual Report to Congress" as a Senate document, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

Senate Resolution 161 would provide (1) that the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144, title 23, United States Code), entitled "Special Bridge Replacement Program, Eighth Annual Report o Congress," be printed with illustrations as a Senate document; and 2) that there be printed 500 additional copies of such document for he use of the Committee on Environment and Public Works.

The printing cost estimate, supplied by the Public Printer, is as llows:

Printing cost estimate

print as a document (1,500 copies)	$2,028.00
additional copies, at $479.90 per thousand	239.95
Total estimated cost, Senate Resolution 161	2,267.95

A joint letter in support of Senate Resolution 161 addressed to Sena- Claiborne Pell, chairman of the Committee on Rules and Adminis- ion, by Senator Jennings Randolph and Senator Robert T. Staf- l, chairman and ranking minority member, respectively, of the mittee on Environment and Public Works, is as follows:

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C., May 16, 197

Hon. Claiborne Pell,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Reference is made to Senate Resolution which was introduced in the Senate on May 15, 1979.

The special bridge replacement program was established by sect 204 of the Federal-Air Highway Act of 1970 and funds were auth ized for fiscal years 1972 and 1973. Section 204 of the Federal-A Highway Act of 1973 continued the program by authorizing fu for fiscal years 1974 and 1976. Section 202(5) of the Federal-A Highway Act of 1976 extended the program by authorizing funds f fiscal years 1977 and 1978. Guidelines and procedures being used implement this program were issued August 7, 1974 and modifi August 9, 1978.

As a result of the Surface Transportation Assistance Act of 197 the special bridge replacement program has been replaced by the ne comprehensive highway bridge replacement and rehabilitation pro gram which extends and expands the old program. Consequently, thi will be the last annual report on the special bridge replacement pro gram which was officially terminated on November 6, 1978, with th enactment into law of the Surface Transportation Assistance Act o 1978. Annual reporting will continue, however, based on the new bridge program.

This eighth annual report to the Congress describes the progress made in administering the special bridge replacement program, through October 31, 1978. This program continues to attract attention of the States to the requirement to replace deficient bridges. From the initiation of this replacement program through October 31, 1978, 2,009 bridges which otherwise could not be replaced immediately using regular Federal-aid highway funds have been approved and funded for their design and/or construction. 764 of these bridges are open to traffic, with the remaining bridges advancing through the various development stages.

The committee feels that dissemination of this report to interested agencies and Federal, State and local government officials will bring to the attention of interested persons changes in this program, as contained in the Surface Transportation Assistance Act of 1978. The expansion of the program to include rehabilitation as well as replacement, with greatly increased funding, will be of interest to the Government officials involved in this program, as well as some new provisions, including the inspection, classification and inventorying of bridges with respect to historic significance.

Your early approval of this resolution would be deeply appreciated.

With kind personal regards,

Truly,

Jennings Randolph,
Chairman.
Robert T. Stafford,
Ranking Minority Member.

Calendar No. 217

96TH CONGRESS
1st Session
SENATE
REPORT
No. 96–203

PAYMENT OF WITNESS FEES

JUNE 6 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. PELL, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 178]

The Committee on Rules and Administration, having considered an original resolution (S. Res. 178) relating to fees of witnesses appearing before the Senate or its committees, reports favorably thereon and recommends that the resolution be agreed to.

Senate Resolution 178 would increase the limitation on daily witness fees payable to witnesses summoned to appear before the Senate or any of its committees from $35 to $50.

The proposed increase in daily witness fees is predicated upon and consistent with the maximum increased limitation on per diem in lieu of subsistence rates for Government employees traveling on official business. Such rates have been the criteria for determining the rate for witness fees paid by the Senate.

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Calendar No. 220

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96–204

AMENDING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

JUNE 8 (legislative day, MAY 21), 1979.—Ordered to be printed

[Filed under authority of the order of the Senate of JUNE 7 (legislative day, MAY 21), 1979]

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 948]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 948) to amend the Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117) to revise the limitation on size of small hydroelectric power projects, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1.—That the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 8) is amended as follows:

(a) In section 401 by deleting the words, "in connection with existing dams which are not being used to generate electric power".

(b) In section 402 by deleting the phrase, "at an existing dam or dams" in both instances where it appears.

(c) In section 403(a) by deleting paragraph (1) and renumbering paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively and renumbering the reference to paragraph (2) as paragraph (1).

(d) In section 405 by deleting the phrase, "in connection with existing dams".

(e) By deleting section 406 and renumbering section 407 and section 408 as section 406 and section 407, respectively.

(f) In section 408 by deleting paragraph (1) and inserting in lieu thereof--

(1) small hydroelectric power projects means any hydroelectric power project which has not more than 25,000 kilowatts of installed capacity;".

(g) In section 408 by deleting definition (6) and renumbering definitions (7) and (8) as definitions (6) and (7), respectively.

c. 2 There is hereby authorized to be appropriated in each of the fiscal years and 1982 not to exceed $100,000,000 in addition to the amounts authorized

by the Public Utility Regulatory Policies Act of 1978 for purposes of loans to made pursuant to section 403, such funds to remain available until expended.

Purpose of the Measure

S. 948, as amended, increases the authority of the small hydroelectric program in Public Law 95-617, title IV, which provides loans fo feasibility studies and construction of projects at existing dams fo projects up to 15 MWe, by including loans for feasibility studies an construction of projects at new or existing hydroelectric projects up t 25 MWe. In addition, S. 948, as amended, includes authorizations o $100,000,000 for fiscal years 1981 and 1982.

Background and Need

The small hydroelectric program authorized in Public Law 95-917, title IV was specifically limited to projects up to 15 MWe at existing dam sites, because evidence available at that time indicated that projects larger than 15 MWe would be cost-effective at existing dams. Several cost feasibility studies have been completed since the passage of that law which indicate that most dams under 25 MWe would not be cost-effective without the advantage of low interest loans. Furthermore, many potential sites have been identified which may be appropriate for the construction of a small run-of-river power facility or a new power facility in a new dam. The development of these potential resources could add several hundred megawatts of electrical generating capacity in regions of the Nation where this capacity is badly needed.

The inclusion of projects greater than 15 MWe but less than 25 MWe does not significantly increase the total number of projects at existing dams. Most projects are less than 10 MWe. Therefore, existing authorizations would still be sufficient to cover the programs at existing dams. However, the inclusion of projects requiring new impoundment structures clearly adds a large new financial burden requiring additional authorization.

Legislative History

The bill was introduced on April 10, 1979 and referred to the Committee on Energy and Natural Resources. It was first considered at the Committee Mark-up on May 3, 1979 and deferred for reconsideration of possible amendments.

Subsequent to Committee discussion of the inadequacy of existing legislation to promote the construction of hydroelectric facilities in conjunction with natural river constrictions or new impoundments, the Committee proposed an amendment to include loans for construction of such small hydroelectric facilities.

On June 7, the bill, as amended (in the nature of a substitute) was reconsidered by the Committee and reported out, without further amendments.

The sponsors of the bill as introduced were Senators Durkin and Jackson. Senators Church, Matsunaga, Hatfield, McClure, Stevens, and Wallop have requested to become cosponsors.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on June 7, 1979, by unanimous vote of a quorum present recommends that the Senate pass S. 948 as amended and described herein.

Committee Amendments

The loan programs and expedited licensing requirements of Title IV of the Public Utility Regulatory Act of 1978 (16 U.S.C. 2708), are restricted to projects located at the site of existing dams and with a maximum installed capacity of less than 15,000 kilowatts. S. 948 as originally introduced by Senators Durkin and Jackson amended those provisions to include hydroelectric projects at existing dams of up to 25,000 kilowatts of installed capacity.

However, an amendment in the nature of a substitute to the bill (as originally introduced), was approved by the Committee. This substitute (also introduced by Senators Durkin and Jackson) substantially expands the scope of both the original legislation (S. 948) and the statute in the following manner:

1. The feasibility study loan program of the statute is extended by the substitute to apply to new projects, as well as existing dams.
2. The project construction loan program of the statute is extended by the substitute to apply to new projects, as well as existing dams.
3. The expedited licensing provisions of Section 405 of P.U.R. P.A. are amended by the substitute to apply to new projects, as well as existing dams.
4. The substitute provides for an additional authorization of $100 million for 1981 and $100 million for 1982, for the expanded program.

Additionally, the substitute contains language identical to the main provision of the originally bill which expands the definition of "small hydroelectric power project" to included projects of up to 25 thousand kilowatts of installed capacity.

The Committee discussion of the substitute bill emphasized the intent of the Committee that the provisions of the substitute should in no way alter or delay the application of existing or proposed regulations for licensing or the immediate implementation of the DOE loan program to those projects covered by the existing statute, prior to mendment by S. 948.

SECTION-BY-SECTION ANALYSIS

Section 1 increases the size of qualifying projects from 15 MWe to 5 MWe. The Federal Energy Regulatory Commission in a letter ated May 8, 1979 to the Committee Chairman concluded that this ange in project size "would not require the Commission to initiate dditional rulemakings. Nor would it require amendments to licens- g regulations currently proposed or in effect."

However, Section 1 also deletes the restriction of the small hydro- etric program to projects at existing sites, and it is the Committee's understanding that this deletion would necessitate additional regulations. In that regard, the Committee specifically directed that existing regulations and the associated program covering projects at existing dams should not be revised in light of this bill. Rather, the regulations governing projects which must be fully constructed (do not involve existing dams) should be promulgated separately. In this regard, it is the Committee's understanding that the Commission will soon propose simplified licensing requirements and procedures for major hydroelectric projects (over 1.5 MWe) which must be fully constructed, and that the Commission has already proposed or promulgated new regulations for major projects at existing dams and for all minor projects (under 1.5 MWe).

Section 2 extends the authorization for the construction long program two additional years at $100 million for each year (fiscal years 1981 and 1982) to support the expanded program.

COSTS AND BUDGETARY CONSIDERATIONS

The Congressional Budget estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

The principal budgetary impact of this measure is to authorize an additional $100 million each in fiscal year 1981 and fiscal year 1982. The cost of administration of the program is not expected to increase greatly as a result of the changes in policy and any fiscal year 1980 impact should be insignificant.

REGULATORY IMPACT EVALUATION

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. This bill merely expands the existing authority of the Federal Government to make loans for certain small hydroelectric projects. With regard to licensing these projects regulations have been or are in the process of being promulgated under existing laws.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from enactment of S. 948.

EXECUTIVE COMMUNICATIONS

One pertinent legislative communication has been received by the Committee from the Federal Energy Regulatory Commission, setting forth recommendations relating to S. 948. This communique is reproduced below:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., May 8, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This letter is in response to your inquiry as to the effect of the bill, S. 948, on hydroelectric rulemakings recently proposed or promulgated by the Commission and those planned for promulgation in the future.

Under Title IV of Public Utility Regulatory Policies Act of 1978 (PURPA), the Commission has undertaken to simplify licensing procedures for "small hydroelectric power projects," currently defined as those of "not more than 15,000 kilowatts of installed capacity." It is my opinion that S. 948 would not hinder the Commission's efforts to comply with the PURPA mandate that the Commission use simple and expeditious procedures and thereby encourage development of small hydroelectric projects.

Before the enactment of PURPA, the Commission determined to overhaul thoroughly its requirements and procedures for license applications and to extend the benefits of such reform to all projects under Part I of the Federal Power Act (FPA). The FERC licensing reforms are now being accomplished in stages:

1. Order No. 11, issued September 11, 1979, instituted a simplified "short-form" licensing procedures for "minor" hydroelectric projects (1.5 megawatts or less of capacity). [Docket No. RM78-9, 43 Fed. Reg. 40215] This rulemaking relies on a size distinction articulated in section 10(i) of the EPA and affects only a portion of the projects eligible under the PURPA programs.

2. On March 5, 1979, the Commissions issued a Notice of Proposed Rulemaking prescribing general filing requirements and evaluation procedures applicable to preliminary permits and license applications. [Docket No. RM79-23, Fed. Reg. 12432] This rulemaking complements other licensing reforms by reducing the procedural burdens on applicant and Commission alike. We expect the effect to be particularly important for the development of small hydroelectric facilities. However, what constitutes a "small" facility under the statutes is of little importance for these comprehensive provisions.

3. The Commission has pending another Notice of Proposed Rulemaking which sets forth simplified requirements and procelures for major projects (more than 1.5 megawatts of capacity) at xisting dams. [Docket No. RM79-36, 44 Fed. Reg. 24095, issued pril 19, 1979] By eliminating unnecessary requests for informaon and consolidating and reorganizing the requirements by subct matter, license applications will be reduced from 12 paraaph and 23 exhibits to a brief initial statement and 7 exhibits. These rulemakings (Docket Nos. RM79-23, RM79-36) together ply to all "small hydroelectric power projects" but their scope application does not depend on the 15 megawatt definition for h projects.

. The Commission will soon complete its licensing reforms ler Part I of the FPA by proposing simplified licensing rerements and procedures for all major projects (more than 1.5

megawatts of capacity) which must be fully constructed. As with Docket No. RM79-36, this rulemaking will subsume, without being limited to, all hydroelectric projects affected by Title IV of PURPA but which were not embraced by the "short-form" regulations. Therefore, the proposed change in section 408(1) of PURPA will not affect the Commission's rulemaking designs.

The passage of S. 948 would not require the Commission to initiate additional rulemakings. Nor would it require amendments to licensing regulations currently proposed or in effect. It appears to me that the major legal impact of the proposal would be to enlarge the class of projects eligible for Title IV loans. If the Commission's licensing reforms proceed as expected, there would be little difference, if any, between the requirements imposed on 15 megawatt facilities and those imposed on 25 megawatt facilities.

If I can be of further assistance in this matter, do not hesitate to contact me.

Sincerely,

CHARLES B. CURTIS,
Chairman.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 948, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

(Public Law 95-617)

* * * * * * *

TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

SEC. 401. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish a program in accordance with this title to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects [in connection with existing dams which are not being used to generate electric power].

SEC. 402. LOANS FOR FEASIBILITY STUDIES.

(a) LOAN AUTHORITY.—The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project [at an existing dam or dams] and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project [at an existing dam or dams] and of participating in any administrative proceeding regarding any such application.

* * * * * * *

SEC. 403. LOANS FOR PROJECT COSTS.

(a) AUTHORITY.—The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

[(1) the project will be constructed in connection with an existing dam or dams,]

[(2)] *(1)* all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued.

[(3)] *(2)* the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

[(4)] *(3)* the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this ubsection to an applicant who has not met the requirements of paragraph [(2)] *(1)*, pending compliance by such applicant with such re- uirements. Such commitment shall be for period of not to exceed 3 ears unless the Secretary, in consultation with the Commission, ex- nds such period for good cause shown. Notwithstanding any such ommitment, no such loan shall be made before such person has com- ied with such requirements.

* * * * * * *

SEC. 405. SIMPLIFIED AND EXPEDITIOUS LICENSING PROCEDURES.

(a) ESTABLISHMENT OF PROGRAM.—The Commission shall establish, such manner as the Commission deems appropriate, consistent with applicable provisions of law, a program to use simple and expedi- us licensing procedures under the Federal Power Act for small iroelectric power projects [in connection with existing dams].

* * * * * * *

C. 406. NEW IMPOUNDMENTS.

Nothing in this title authorizes (1) the loan of funds for construc- of any new dam or other impoundment, or (2) the simple and ditious licensing of any such new dam or other impoundment.]

C. [407.] *406.* AUTHORIZATIONS.

here are hereby authorized to be appropriated for each of the fiscal s ending September 30, 1978, September 30, 1979, and Septem- 0, 1980, not to exceed $10,000,000 for loans to be made pursuant to on 402, such funds to remain available until expended. There are y authorized to be appropriated for each of the fiscal years end- eptember 30, 1978, September 30, 1979, September 30, 1980, not ceed $100,000,000 for loans to be made pursuant to section 403, funds to remain available until expended.

SEC. [408.] *407.* DEFINITIONS.

For purposes of this title, the term—

[(1) "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;]

(1) "small hydroelectric power projects" means any hydroelectric power project which has not more than 25,000 kilowatts of installed capacity.

* * * * * * *

[(6) "existing dam" means any dam, the construction of which was completed or on before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;]

[(7)] *(6)* "municipality" has the meaning provided in section 3 of the Federal Power Act; and

[(8)] *(7)* "person" has the meaning provided in section 3 of the Federal Power Act.

○

Calendar No. 221

96th Congress } SENATE { Report
1st Session } { No. 96–205

DIRECTING THE SECRETARY OF THE INTERIOR TO REPORT TO THE CONGRESS ON PLANS OR PROJECTS AFFECTING THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES, AND FOR OTHER PURPOSES

JUNE 8 (legislative day, MAY 21), 1979.—Ordered to be printed

[Filed under authority of the order of the Senate of JUNE 7 (legislative day, MAY 21), 1979]

JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1119]

he Committee on Energy and Natural Resources, to which was re-
ed the bill (S. 1119) to direct the Secretary of the Interior to re-
to the Congress on plans or projects affecting the territories and
essions of the United States, and for other purposes, having con-
ed the same, reports favorably thereon with amendments and
mmends that the bill as amended do pass.

e amendments are as follows:

Page 1, line 4, after "permission" and before "for" insert "by any
cy or instrumentality of the United States to any person".

Page 1, line 7, delete "United States by any agency or instrumen-
of the".

Page 2, line 4, after "granted" and before "unless" insert "nor
ny such transportation or storage occur".

PURPOSE

purpose of S. 1119 is to insure that the Secretary of the Interior
ns the Congress of any proposals for the transportation of spent
r fuel or high level radioactive waste to or for the storage of
naterial on any territory or possession of the United States.
easure also requires specific authorization by Congress of the
nentation of any such proposal.

BACKGROUND AND NEED

On March 28, an article appeared in the Washington Post entitl “U.S. Proposes Storing Spent Nuclear Fuel on Pacific Isle.” T article stated that the United States had proposed to the Gover ment of Japan the use of an American owned island for the storag of spent nuclear fuel. The article quoted “administration sources” saying “a number of American islands are being studied as the pos sible site for spent fuel storage, some inhabited and some uninhabited.

In light of the committee's responsibilities both for territories an insular affairs and for the nuclear waste storage program, Senato Jackson wrote to the Secretaries of State, Energy, and Interior expressing his concern that the committee had not been notified of th negotiations or the proposal. The Department of the Interior responded that they knew nothing about this proposal; the Department of Energy responded that they were not the lead agency but were sorry the committee had not been told; and the Department of State responded that section 104 of the Nuclear Nonproliferation Act of 1978 required them to enter into these negotiations and that: “Of course, no major step would be taken in this issue without consulting you, your committee and other interested members of Congress, and, as appropriate, seeking congressional approval.” Subsequent to Senator Jackson's letter, the Department of Energy submitted a classified document containing background materials, and the Department of State provided a general briefing for the committee.

A major concern of the committee was, and still is, the unwillingness of the State Department to identify in public the potential sites. Among the legacies of the American and French nuclear test programs in the Pacific are a fear of even the presence of nuclear-powered vessels, much less the storage of nuclear wastes on some “inhabited” island, and a general distrust of the intentions of the nuclear powers in the area. The French nuclear tests at Mururoa and Hao Atolls have resulted in continued angry reactions both locally and among representatives to the South Pacific Conference. In October 1978, a church-sponsored conference in Ponape, in the trust territory, brought together representatives form around the Pacific to discuss nuclear issues and to call for a nuclear-free Pacific. There is little differentiation within the Pacific community between nuclear weapons, nuclear wastes, and nuclear-powered vessels. Several Pacific ports are closed to nuclear-powered vessels and the United States has even had difficulty in scheduling port visits in New Zealand and Australia, ANZUS allies in the Pacific. The situation in the American-owned areas is compounded by the continuing unresolved situation of the peoples of Bikini and Enewetak Atolls.

General statements of where the United States or other countries are looking or not looking for nuclear waste storage sites are not likely to allay the very real concerns of the Pacific community. In meetings with the Department of Energy and the Department of State on this program, the committee questioned the continued need for secrecy over the potential sites and the nature and status of the proposals.

Despite the expressions of concern from the committee, the State Department would only state formally that: "The sites currently under consideration are undisputed U.S. territories, either uninhabited or having no indigenous population, and do not involve any location in the Trust Territory of the Pacific Islands." Whatever benefit that statement might have is dissipated by the word "currently." In addition, since there are uninhabited islands in the Northern Marianas, Samoa, the Aleutians, and Hawaii, the State Department response did little to quiet the fears in the Pacific. Articles and editorials began to appear, as anticipated, in Guam as well as Australia and other areas.

Although S. 1119 was drafted when the original Post article appeared, introduction was delayed as a result of the briefings. From the briefings by the Departments of State and Energy, together with the materials submitted by the Department of Energy, it appeared that the preliminary sites evaluation was virtually complete. The sites under consideration, although obviously subject to the general concerns of the Pacific community over any nuclear storage proposal in the Pacific, approve to avoid the major protests likely to accompany proposals at other potential sites.

On May 3 the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs wrote to Senator Jackson notifying him that additional investigations would be undertaken. The sites included in these investigations seemed to confirm some of the site-specific concerns raised by the committee. In addition, when asked whether he was aware of the new investigations, the Under Secretary of the Interior responded that he was not.

On May 10, S. 1119 was introduced by Senators McClure, Church, Hatfield, Jackson, Johnston, and Matsunaga; and Senator Jackson wrote to the Secretary of State informing him of the introduction of S. 1119 and the scheduling of a hearing on June 5. The letter stated in art that: "The inclusion of one of those sites, in my estimation, is ikely to result in a needless and very serious reaction among memers of the Pacific community. Furthermore, the Department of the nterior, which has the general responsibility for territorial affairs in e executive branch, has again not been informed of your proposals."

The hearing on June 5 was conducted in executive session at the reest of the administration since the identity of the potential sites had en classified. The committee discovered, however, that the sites could made public. In addition, with respect to the timing of notice to the ngress, the committee was informed that the administration did not ieve there was any legal requirement to notify the Congress of any ns until such time as an authorization for the actual expenditure of ds was needed for the repurchase, transportation, and storage of nt fuel. Although the administration had stated intentions to keep Congress informed in the future, the witnesses objected to any utory requirement for such notice.

he committee wishes to emphasize that its concern, as expressed S. 1119, does not in any manner reflect an opinion with respect to goals and objectives of the Nuclear Nonproliferation Act of 1978, is the concern designed to limit in any way the conduct of negotias pursuant to that act. The committee also wishes to emphasize that it in no way wishes to prejudge the feasibility or the desirabili of the use of island storage for spent nuclear fuel. The committee's co cern expressed in this measure are the failure of the administration notify and inform the Congress and the apparent insensitivity of t executive department participants in this venture to the concerns the Pacific community. The objectives of S. 1119 are to guarantee th the Congress is informed in a timely manner and to assure the membe of the Pacific community that the United States will not sanction approve any proposal for spent fuel storage without full public di closure of the site and open consideration and formal approval by th U.S. Congress.

LEGISLATIVE HISTORY

S. 1119 was introduced on May 10, 1979, and a full committee hearing was conducted on June 5. The bill was introduced by Senator McClure, Church Hatfield, Jackson, Johnston, and Matsunaga Senator Bradley requested to be added as a cosponsor on June 7.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 7, 1979, by unanimous vote of a quorum present, recommends that the Senate pass S. 1119 if amended as described herein.

COMMITTEE AMENDMENTS

1 and 2. These two amendments are technical and are designed to clarify that the legislation applies to all proposals for transportation or storage and encompasses private as well as public entities, as well as foreign governments, utilities, or individuals and international organizations. The word "person" is to be considered as all inclusive.

3. The third amendment invokes the full extent of the Territorial Clause of the Constitution to absolutely prohibit any transportation or storage by any person, foreign or domestic, without the specific approval of Congress.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of the measure has been provided by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 8, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1119, a bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, June 7, 1979.

Based on this review, it is expected that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

Alice M. Rivlin, *Director.*

REGULATORY IMPACT EVALUATION

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and business.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1119.

EXECUTIVE COMMUNICATIONS

The legislative report received from the Department of the Interior together with the supplementary testimony presented to the Committee by the Department of State setting forth executive agency recommendations relating to S. 1119 are set forth below:

Department of the Interior,
Office of the Secretary,
Washington, D.C., June 7, 1979.

Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This responds to your request for our views on S. 1119, a bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes.

S. 1119 would require that before the issuance of a license, permit, or other authorization or permission to transport or store spent nuclear fuel or high-level radioactive waste in any territory or possession of the United States, the Secretary of the Interior must transmit to Congress a detailed report on the transportation and storage plan. No such license, permit, or other authorization or permission could be issued unless the proposed transportation and storage plan is specifically authorized by an act of Congress. The bill would not apply to cleanup and rehabilitation of Bikini and Enewetak Atolls, but would otherwise apply to the Trust Territory of the Pacific Islands.

The Department of Interior has jurisdiction over the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (including the Northern Mariana Islands), Palmyra Island, and Wake Island. The bill would apply to a number of areas that lie outside the urisdiction of the Secretary of Interior. The bill, by implication, how-ver, would require any other agency or instrumentality of the United tates planning such transportation or storage to submit its detailed lans to the Secretary of the Interior, who in turn would forward them the Congress.

The formulation of the administration's position on S. 1119 has not t been completed, but that position will be transmitted to you in the ar future. However, this Department has no objection to a bill that would require the Secretary of the Interior to report to the Congress on this matter.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

James A. Joseph, *Under Secretary.*

SUPPLEMENTARY TESTIMONY OF THOMAS R. PICKERING, JUNE 5, 1979, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

I would like to take a moment to specifically address issues raised by S. 1119 which has been introduced and referred to the Senate Committee on Energy and Natural Resources. My colleagues and I have not had sufficient time to give it full consideration, and we do not have an official executive branch position to convey. However, it is my view and the view of the State Department that this legislation presents serious problems. It would seem at our present reading to require that the Congress enact a new statute for each license or other authorization for any transportation of spent nuclear fuel or high-level radioactive wastes, civil or military, to or for storage in the United States. This appears to apply to transportation both entirely within the United States and to spent fuel or high-level waste received from abroad.

Mr. Chairman, I would also like to point out that section 131(f) of the Atomic Energy Act of 1954, as amended, specifically provides that any subsequent arrangement involving any direct or indirect commitment for storage or other disposition of any foreign spent nuclear power reactor fuel in the United States (except under certain limited emergency situations) may not become effective if during a 60-day period of continuous session of the Congress, a concurrent resolution opposing such a commitment were adopted by the Congress. This provision gives the Congress broad authority to disapprove any foreign spent fuel storage in the United States proposed by the executive branch. It provides for expedited congressional consideration of any proposed congressional disapproval.

In addition, section 107 of the Department of Energy Act of 1978, I "Civilian Applications," provides that the Secretary of Energy may not "directly or indirectly" use any funds made available to him for the "repurchase, transportation, or storage of any foreign spent (power reactor) nuclear fuel" unless such expenditure has been expressly authorized by the Congress in legislation or expressly authorized by a concurrent resolution, or the President has submitted a plan concerning the use of such funds to the Congress and neither House of Congress has approved a resolution of disapproval during a 30-day period of continuous session.

In the view of the State Department enactment of S. 1119 is therefore probably redundant and not appropriate with regard to foreign spent fuel, given the provisions of section 131(f) of the Atomic Energy Act of 1954, as amended, and section 107 of the Department of Energy Act of 1978. The Congress, we believe, already has broad authority to review and control any administration plans to return foreign spent power reactor fuel to the United States. These provisions require detailed reporting to the Congress and provide for prompt consideration of any such plans. The S. 1119 would appear to go well beyond those requirements and affect the transportation of all types of spent fuel.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the bill S. 1119 as reported.

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Calendar No. 222

96th Congress, 1st Session | SENATE | Report No. 96–206

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1980 FOR INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT, THE INTELLIGENCE COMMUNITY STAFF, THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM, AND FOR OTHER PURPOSES

June 11 (legislative day, May 21), 1979.—Ordered to be printed

Mr. Nunn (for Mr. Stennis), from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 975]

The Committee on Armed Services, to which was referred the bill S. 975) to authorize appropriations for fiscal year 1980 for intelli- ence activities of the U.S. Government, the intelligence community aff, the Central Intelligence Agency Retirement and Disability Sys- m, and for other purposes having considered the same, reports favor- ly thereon without amendment and recommends that the bill do pass.

COMMITTEE RECOMMENDATIONS

The committee recommends changes to increase the amount author- d for intelligence analysis manpower in the Defense Intelligence ency, the Army, the Navy, and the Air Force. Since the amounts horized for these activities are classified and do not appear in S. as reported, however, the changes are shown in the classified ex to this report.

COMMITTEE CONSIDERATION

enate Resolution 400 of the 94th Congress, which created the Sen- Select Committee on Intelligence, conferred on that new commit- xclusive legislative and authorizing jurisdiction over the Central lligence Agency and the Director of Central Intelligence. The ution further provided that the new select committee was to have urrent legislative and authorizing jurisdiction over the intelli- activities of certain other departments and agencies of the Gov- ent. Thus, section 3(b) of Senate Resolution 400 provided a parliamentary mechanism to permit a committee under whose jurisdiction such activities would otherwise fall, to obtain sequential referral of the select committee's bill for further consideration. The committee feels that this sequential referral process is an essential one, since the knowledge and oversight experience of the standing committee which deals with a particular department is essential in assuring that the best possible legislation is reported to the Sente.

Since S. 975 authorizes funds for the intelligence activities of the Department of Defense, including the defense agencies and the military services, the committee requested sequential referral of the bill for the purpose of reviewing the recommendations of the select committee with respect to Department of Defense intelligence programs. The committee has considered only the parts of title I dealing with the Department of Defense or the Department of Energy, and has not considered titles II and III of the bill dealing with the intelligence community staff and the CIA retirement system.

A number of programs dealing with intelligence activities in the Department of Defense were dealth with by the committee through its Subcommittee on Research and Development during consideration of the fiscal year 1980 defense authorization request. Other programs were considered by the full committee during its examination of tactical air items in the request. This year the committee also held a separate hearing on the General Defense Intelligence Program. The Director of the Defense Intelligence Agency and the chiefs of the intelligence organizations of each of the four services appeared and gave the committee a useful insight into intelligence programs and problems. In addition, the committee worked closely throughout the consideration of the fiscal year 1980 bill with the Senate Select Committee on Intelligence.

COMMITTEE ACTION

In nearly all respects, the committee concurs with the recommendations of the Senate Select Committee on Intelligence, as reflected in the classified report of that committee to accompany S. 975.

The committee recommends one change to the programs as reported by the select committee for intelligence activities of the Department of Defense, however. While that committee recommended an increase in 200 personnel above the request for intelligence analysis, the Armed Services Committee recommends additional personnel of 500 above the request for these purposes. As noted in the committee's report on S. 428, the Department of Defense authorization bill, where civilian and military end strengths were increased by 500 to accommodate these additions, there is a clear need to devote more attention to improving the ability of our intelligence agencies to analyse the vast amounts of intelligence information collected by modern systems and methods. Based on its hearings and other information collected, the committee's concerns over the ability of DIA and the services to analyze intelligence centered in two areas. First, testimony revealed that our ability to produce basic intelligence on the political, economic, social, and military facts concerning many areas of the world is woefully inadequate. Our recent reevaluation of North Korean military strength, which required a specially detailed team of Army analysts on a temporary basis to digest already available information, illustrates our problem.

The need here is not for clandestine intelligence, but for continuing and expert analysis of facts and trends from information easily available. This is especially true of Third World countries, where witnesses testified our basis knowledge is simply inadequate. Second, testimony revealed that there is a great need to improve our scientific and technical intelligence analysis, in order to improve our research and development effort in all the military services. The committee deplores the steady decline in intelligence manpower devoted to analysis tasks in recent years, and urges the Department of Defense to use the larger number of spaces provided to train and utilize high-level analysts. The Secretary of Defense should report at the time the fiscal year 1981 budget is submitted on how these additional 500 spaces were utilized.

INTELLIGENCE-RELATED ACTIVITIES

Authorization for intelligence-related activities (IRA) is not included in this bill. The committee's actions on IRA programs are outlined in its report on the fiscal year 1980 military authorization bill, S. 428, as these programs are a part of the funding requests of the respective military services. This year the committee benefited greatly from the program analysis and recommendations of the Senate Select Committee on Intelligence on IRA programs.

The budget category intelligence related activities (IRA) includes rograms outside the consolidated defense intelligence program which re primarily intended to serve operational commanders. IRA does not nclude intelligence programs in a strict sense of that term, but, rather, a loose aggregation of tactical reconnaissance, surveillance, warning nd target acquisition programs. The committee, while mindful of the anagement efficiencies possible with such a category as IRA, suggests at it not become too unwieldy or burdened with programs that have tenuous relationship to the broader intelligence function as it is com- only understood. Constant shifting of programs in and out of IRA o inhibits stability in management and congressional oversight, and ates jurisdictional confusion among congressional committees. erefore, the committee directs that, unless specifically approved by of the appropriate authorizing committees and the appropriations mittees, no programs be shifted from the regular military budget egories into IRA during fiscal year 1980 and that no current IRA grams be shifted into the national foreign intelligence program.

JOINT PROGRAM FUNDING

he committee continues to be concerned about the need to devote ling and program planning to the intelligence needs of tactical nanders. Since many of these important programs are small when idered alone, they have difficulty competing with the large national ligence programs for scarce funds. Care must be taken to insure the programs required by the services for battlefield and theater re not slighted.

nerally, funding for national programs, even where there has been intelligence benefit to the battlefield commander, has been in the nal intelligence budget and not in the budgets of the military serv- In the case of a small number of programs like the Air Force's

Rivet Joint this year, funding is split for programs that are primaril national but have tactical uses. Thus the services absorb a part of th cost in their IRA budgets, where funds compete with other nonintelli gence programs. While each of these separate funding decisions seem justified, the committee is concerned that this joint funding metho might work to the detriment of the services in future years. Particu larly if it comes late in the budget preparation cycle, a decision to transfer part of the funding for a hitherto national program to the military budget can be disruptive of other nonintelligence programs, and can leave the service involved in a painful funding dilemma. The committee is also concerned that this joint funding process not become a method of expanding the national intelligence budget in an indirect way by requiring separate funding for portions of a program that have tactical applications.

CLASSIFIED PROGRAM RECOMMENDATIONS

In addition to the actions and recommendations outlined in this report, the committee adopted program recommendations endorsing two classified reconnaissance programs. These recommendations are discussed in a classified annex to this report, which will be made available to all members, to appropriate committees; and to the Executive Branch.

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Calendar No. 223

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-207

NASA AUTHORIZATION FOR FISCAL YEAR 1980

REPORT

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

H.R. 1786

AN ACT TO AUTHORIZE APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FOR RESEARCH AND DEVELOPMENT, CONSTRUCTION OF FACILITIES, AND RESEARCH AND PROGRAM MANAGEMENT, AND FOR OTHER PURPOSES

JUNE 11 (Legislative day, MAY 21), 1979.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

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96TH CONGRESS
1st Session } SENATE { REPORT
No. 96–207

AUTHORIZING APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

JUNE 11 (Legislative day, May 21), 1979.—Ordered to be printed

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Mr. STEVENSON, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 1786]

The Committee on Commerce, Science, and Transportation, to which
as referred the bill (H.R. 1786) to authorize appropriations to the
ational Aeronautics and Space Administration for research and de-
lopment, construction of facilities, and research and program man-
ement, and for other purposes, having considered the same, reports
orably thereon, with an amendment in the nature of a substitute
d recommends that the bill as amended do pass.

CONGRESSIONAL ADJUSTMENTS TO NASA REQUEST FOR FISCAL YEAR 1980

SUMMARY

Fiscal year 1980	Budget request	House action	Senate committee action
Research and development:			
Space Shuttle	$1,586,000,000	$1,393,000,000	$1,586,000,000
Space flight operations	467,300,000	463,300,000	467,300,000
Expendable launch vehicles	70,700,000	70,700,000	70,700,000
Physics and astronomy	337,500,000	337,500,000	337,500,000
Planetary exploration	220,200,000	220,200,000	220,200,000
Life sciences	43,900,000	43,900,000	43,900,000
Space applications	332,300,000	338,300,000	334,300,000
Technology utilization	12,100,000	12,100,000	12,100,000
Aeronautical research and technology	300,300,000	308,300,000	309,300,000
Space research and technology	116,400,000	116,400,000	119,400,000
Energy technology	3,000,000	3,000,000	5,000,000
Tracking and data acquisition	332,800,000	332,800,000	332,800,000
Total	3,822,500,000	3,639,500,000	3,838,500,000
Construction of facilities	157,600,000	157,600,000	157,600,000
Research and program management	964,900,000	964,900,000	964,900,000
Grand total	4,945,000,000	4,762,000,000	4,961,000,000

PURPOSE OF THE BILL

The purpose of this bill is to authorize appropriations to the National Aeronautics and Space Administration totaling $4,961,000,000 for fiscal year 1980 as follows:

Fiscal year 1980	Budget request	House action	Senate committee action
Research and development	$3,822,500,000	$3,639,500,000	$3,838,500,000
Construction of facilities	157,600,000	157,600,000	157,600,000
Research and program management	964,900,000	964,900,000	964,900,000

LEGISLATIVE HISTORY

The budget request for fiscal year 1980 for the National Aeronautics and Space Administration was introduced in the House under H.R. 1786 on February 1, 1979 and in the Senate as S. 357 on February 6, 1979. After holding hearings, the House Committee on Science and Technology reported out H.R. 1786 with an amendment in the nature of a substitute. H.R. 1786 was passed by the House on March 28, 1979, with one technical amendment, and subsequently referred to this Committee.

The Committee held hearings on S. 357 during February and March 1979. During its consideration of the bill, the Committee determined that amendments were required. After amending S. 357, including an amendment authorizing a supplemental appropriation for fiscal year 1979, the Committee on April 10, 1979, ordered the House bill, H.R. 1786, reported with an amendment in the nature of a substitute.

Prior to reporting the bill, the Committee was notified by the agency that additional funds were required for fiscal year 1980. The Committee, on May 8, 1979, reconsidered H.R. 1786, ordered the authorization for a supplemental appropriation for fiscal year 1979 deleted from the bill and reported in separate legislation, H.R. 1787, and deferred further action on H.R. 1786 pending developments. An amended budget request was submitted to the Congress by the President on May 14, 1979. Additional hearings were held. The Committee, on June 5, 1979, further amended H.R. 1786 and ordered the bill reported.

SUMMARY

For fiscal year 1980 NASA requested a budget totaling $4,725 million, of which $3,602,500,000 is for research and development, $157,600,000 for construction of facilities, and $964,900,000 for research and program management. However, following a reassessment of the Space Shuttle program, NASA on April 27, 1979, advised the Committee that additional funds would be required in fiscal years 1979 and 1980 for the Space Shuttle design, development, test and evaluation (D.D.T. & E.) program. Initially, NASA proposed to accommodate these new funding requirements within existing fiscal year 1979 and fiscal year 1980 budget levels by transferring funds from the orbiter fleet production program to the D.D.T. & E. program. However, such a transfer would have deferred substantially production and delivery of the Shuttle's operational fleet, thereby incurring a large cost penalty (as much as $500 million); moreover, the Space Shuttle would not have been able to meet civil and military requirements for space launches during the early 1980's, thereby incurring additional costs approaching $500 million for the procurement of expendable launch vehicles and losses associated with the unavailability of the Shuttle's unique capabilities.

On May 14, 1979, the President formally requested the Congress to consider an amendment to the fiscal year 1980 NASA budget request in the amount of $220 million for the Space Shuttle program to maintain the D.D.T. & E. and production schedules necessary to meet civil and military requirements and to avoid steep cost penalties. Thus, for fiscal year 1980, the NASA budget request totals $4,945 million of which $3,822,500,000 is for research and development; the amounts requested for the construction of facilities and research and program management are unchanged from the original request.

The Committee recommends a total of $4,961 million be authorized to be appropriated to the National Aeronautics and Space Administ ration for fiscal year 1980, an amount $16 million above the amended equest. Of the amount recommended by the Committee, $3,838,500,000 s for research and development, which is $16 million above the request nd $199 million above the amount approved by the House; $157,600,00 is for construction of facilities which is identical to NASA's equest and identical to the House-approved amount; and $964,900,000 for research and program management, which is identical to the quest and to the amount approved by the House. It should be noted at the bill as passed by the House does not include consideration of e President's $220 million budget amendment; the House passed the ll before the President sent his amended budget request to the ongress.

The Committee recommendation is $394,831,000 above the amount ailable to NASA for fiscal year 1979 (including two fiscal year 79 supplemental requests—for the Space Shuttle and for Federal ployee pay increases), an increase of less than 1 percent after allow for the effects of inflation. This recommendation by the Committee represents about 0.8 percent of the total new budget authority recommended by the Budget Committees of the Senate and the House.

The NASA budget request for fiscal year 1980 has been carefully reviewed by the Committee. It was noted that, while supporting research and development projects underway, the request provided for no new initiatives and that important programs had been cut substantially by the Office of Management and Budget. The Committee found that some of these cuts impair the future needs of the Nation, therefore, the Committee recommends additions, directed to the Nation's future needs in space and aeronautics, as follows:

Two million dollars to initiate development of a solid state, multispectral resource sampler for remote sensing applications;

Four million dollars to be applied to technology of variable cycle aircraft engines;

Five million dollars to initiate a program in advanced rotorcraft technology directed to maintaining U.S. leadership in the technology and thus in the market for such aircraft;

Three million dollars for increased effort on the development of advanced space structures;

Two million dollars to support additional activities in NASA designed to identify and verify potential contributions to national energy needs.

In addition, the Committee in this report directs an internal reallocation of $1 million to advanced programs in the space flight operations program for definition studies of a large deployable antenna, including planning for multiagency participation in a demonstration project.

Those new initiatives with a multiyear performance period can be supported without major impact on NASA's subsequent budgets.

The bill provides authorization for appropriations in three appropriation categories; research and development, construction of facilities, and research and program management.

The 12 line items under research and development are fully described in the subsequent sections of the report.

The principal elements of the construction of facilities request are: Space Shuttle facilities, $31,450,000; large aeronautical facilities, $45,900,000; other aeronautical research facilities, $16,600,000; repair projects, a new facility category for fiscal year 1980, $12 million; rehabilitation and/or modification projects, $31,550,000 of which $19,790,000 is for high priority projects not in excess of $500,000 each; new construction, $6,100,000 of which $3,500,000 is for high priority minor construction projects not in excess of $250,000 per project; and facility planning and design, $14,000,000. The major Space Shuttle facility requirements are for completing the construction of the second launch facility at the Kennedy Space Center and for additional modifications at the Michoud Assembly Facility to support Space Shuttle external tank production operations. Funding for the large aeronautical facilities represents the fourth and final increment for both the transonic facility at the Langley Research Center and the expansion and upgrading of the low speed, subsonic 40- by 80-foot wind tunnel at the Ames Research Center.

The Committee recommendation for research and program management reflects a personnel level of 22,563 at the end of fiscal year 1980.

This is 674 positions below the level recommended for fiscal year 1979. Of the $964,900,000 requested, about 75 percent is for salaries and personnel benefits. The remaining 25 percent is divided among facility services, technical services, management and operations support, and travel.

The Committee also considered several legislative amendments as discussed in the report under legislative changes. Two of the amendments are technical in nature; the third deletes the authorization of appropriations for NASA for fiscal year 1981 which will be the subject of a separate authorization bill next year.

Section 6 of the bill contains two amendments to the National Aeronautics and Space Act of 1958, as amended, both proposed by NASA. The first amendment modifies section 203(c)(13)(A) authorizing NASA to settle small claims not in excess of $25,000 in lieu of the existing $5,000 limitation on such actions. The second amendment adds a new section 308 entitled "Insurance and Indemnification." It is designed to facilitate an orderly and equitable allocation of tort liability risk in the operations of the Space Shuttle. In so doing, it is designed to encourage and maximize the commercial use of the Shuttle thus reducing the cost of space flights for both the U.S. Government and non-Government users. A detailed analysis of these amendments can be found in the section-by-section analysis section of the report.

The Subcommittee on Science, Technology, and Space held 6 days of hearings on the contents of this bill during February and March. On April 6, 1979, the subcommittee met to prepare its recommendations to the full committee. On April 10, 1979, the Committee on Commerce, cience, and Transportation met, marked up the bill, and ordered, ithout objection, the bill reported. However, as previously noted, before the Committee reported the bill, the Committee was notified of the eed for additional funds for the Space Shuttle program. Therefore, on lay 8, 1979, the Committee withdrew its order to report the bill. Ad-itional hearings on Space Shuttle program funding requirements ere held by the subcommittee on May 1 and June 4, 1979. On June 5, 79, the Committee on Commerce, Science, and Transportation met d marked up the bill and, without objection, ordered the bill ported.

RESEARCH AND DEVELOPMENT

SUMMARY

Fiscal year 1980	Budget request	House action	Senate committee action
ch and development:			
ace Shuttle	$1,586,000,000	$1,393,000,000	$1,586,000,000
ace flight operations	467,300,000	463,300,000	467,300,000
pendable launch vehicles	70,700,000	70,700,000	70,700,000
ysics and astronomy	337,500,000	337,500,000	337,500,000
netary exploration	220,200,000	220,200,000	220,200,000
e sciences	43,900,000	43,900,000	43,900,000
ace applications	332,300,000	338,300,000	331,300,000
hnology utilization	12,100,000	12,100,000	12,100,000
onautical research and technology	300,300,000	308,300,000	309,300,000
ce research and technology	116,400,000	116,400,000	119,400,000
rgy technology	3,000,000	3,000,000	5,000,000
cking and data acquisition	332,800,000	332,800,000	332,800,000
tal	3,822,500,000	3,639,500,000	3,838,500,000

SPACE SHUTTLE PROGRAM, $1,586,000,000

The Space Shuttle, under development since 1972, is the key element of the future U.S. space transportation system. It will provide users, both national and international, with round trip access to low-Earth orbits, beginning in 1981. Higher orbits and planetary missions will be achieved using upper stages such as the inertial upper stage and spinning solid upper stages.

The Space Shuttle will be launched from both the Kennedy Space Center, Fla., and the Vandenberg Air Force Base, Calif.

The Space Shuttle consists of the following basic flight hardware elements: the orbiter and its main engines; the external propellant tank; and twin rocket boosters. In addition, there is a ground-based launch and landing system. It is a reusable system, except for the external propellant tank. Consequently, it will make possible multipurpose, economical space operations for applications, scientific, defense, and technological payloads. It will offer capabilities that cannot be achieved with today's launch vehicles. For example, the Space Shuttle will carry both men and women in space to operate equipment that requires the manual dexterity and logical judgments of humans. It will be able to retrieve payloads from space for reuse; to service and repair satellites in space; to transport materials and equipment into orbit; and to carry out rescue missions if needed. These capabilities of the Shuttle will greatly enhance the flexibility and productivity of space operations and reduce their cost.

The Space Shuttle will have a large payload volume of 285 cubic meters (370 cubic yards) and a weight-carrying capacity of up to 29,500 kilograms (65,000 pounds).

The Space Shuttle will have a crew of three: the commander, the pilot, and a mission specialist. On some missions, one or more payload specialists will be added to the crew to operate payloads. The crew will be able to perform their duties in a shirt-sleeve environment.

The Department of Defense will launch all its spacecraft using the Space Shuttle and has scheduled its transition from expendable launch vehicles. The Air Force is the designated executive agent for the Department of Defense for all space transportation system matters. Coordination between NASA and the Department of Defense is achieved through the NASA/USAF Space Transportation System Committee and by detailing personnel between the Department and NASA to serve on each other's committees, boards, and panels, and in extensive day-to-day coordination.

In support of the Space Shuttle, the Air Force has undertaken the development and production of the inertial upper stage for the Space Shuttle and the full-scale development of the Vandenberg Air Force Base Space Shuttle launch and landing facility. Other efforts are underway in such areas as payload interfaces and integration, mission operations, data, and software systems, and future uses of the Space Shuttle.

Summary of Resources Requirements

Design, development, test, and evaluation:	
Orbiter	$420,800,000
Main engine	140,600,000
External tank	68,400,000
Solid rocket booster	57,500,000
Launch and landing	143,200,000
Subtotal	830,500,000
Production:	
Orbiter	570,600,000
Main engine	109,900,000
Launch and landing	20,000,000
Spares and equipment	55,000,000
Subtotal	755,500,000
Total	1,586,000,000

Milestone schedule

First manned orbital flight	1st Quarter 1980.
Five orbital flight tests	1980.
Initial operational capability	Late February 1981.
Delivery of 2d orbiter	March 1982.
Delivery of 3d orbiter	3rd Quarter 1983.
Delivery of 4th orbiter	4th Quarter 1984.

Design, development, test, and evaluation (*D.D.T. & E.*).—Space Shuttle development, test and evaluation is now in a period of peak effort with the first orbital flight test now planned for early 1980. Major activities planned for fiscal year 1980 are:

Complete main propulsion testing;

Deliver the second set of main engines to the Kennedy Space Center;

Complete delivery of four sets of solid rocket flight hardware for the orbital flight test program;

Complete delivery of four external tanks for the orbital flight test program; and

Conduct the first orbital test flight—manned—and continue subsequent orbital flight tests.

The reusable orbiter, approximately the size of a DC–9 jet trans-ort, serves as the spacecraft to deploy and retrieve payloads, provide arters for the personnel and a base for short duration on-orbit periments. On completing its on-orbit task the orbiter reenters the mosphere and lands similar to an airplane returning crew and pay-ads to the launch site. The first flight vehicle, Orbiter 102, is at the ennedy Space Center undergoing final systems installation and eckout in preparation for an early 1980 launch. Six—may be duced to five—orbital test flights using Orbiter 102 are scheduled ogressively to support the verification of the Space Shuttle for oper-onal use. During fiscal year 1980 orbital test flights are planned intervals of approximately every 3 months.

Three high-pressure liquid hydrogen/oxygen engines, each with a 2,100,000 newton (470,000 pounds) thrust—in vacuum—will be used on the Space Shuttle. These engines represent a major advancement in propulsion technology. Progress on the main engine development, test, and evaluation has been significant. However, during the past year, problems were experienced with a number of engine components which have caused the main engine project to fall behind in accumulated engine test time. Although engine testing is still a pacing item in the program, it is expected to be completed by fiscal year 1980.

The external tank will carry all the propellants—liquid hydrogen as a fuel and liquid oxygen as the oxidizer—for the orbiter's three main engines which will burn from just before liftoff to cutoff, just prior to orbital insertion. The external tank will then be separated from the orbiter and put into a planned ballistic trajectory where it will tumble and break up with the pieces landing in a designated remote ocean area.

Two reusable solid rocket boosters (SRB) attached to the external tank will burn in parallel with the orbiter main engines to provide the necessary thrust for the Space Shuttle from liftoff to booster staging. Each SRB weighs approximately 583,600 kilograms (1.29 million pounds) and will deliver approximately 11.6 million newtons (2.6 million pounds) average thrust—in vacuum. The SRB's are approximately 3.6 meters (12.2 feet) in diameter and 45.5 meters (149 feet) long. After burnout, at an altitude of about 45 kilometers (150,000 feet) the SRB's will separate from the external tank, descend by parachute, and land in the ocean about 260 kilometers (140 nautical miles) from the launch site. They will be recovered by ship and returned for refurbishment and reuse.

The launch and landing project includes the preparation of a series of Space Shuttle ground processing, launch and landing station sets at the Kennedy Space Center and the Dryden Flight Research Center, and the operation of these sets through the orbital flight tests. These station sets include handling, testing and servicing systems, and ground support equipment. During fiscal year 1980, the major activities will focus on processing flight elements and conducting the first four orbital flight tests, recovery and processing of the reusable flight hardware from the orbital flight tests, and assessing ground processing activities to improve vehicle turnaround time.

A further assessment of D.D.T. & E. program status and funding requirements was made in conjunction with compiling the budget requirements for NASA for fiscal year 1981. It was determined that more work than previously anticipated remained to be accomplished to support the projected schedule for the first orbital test flight, and that additional funds were required in fiscal years 1979 and 1980. After considering various alternatives including rescheduling the D.D.T. & E. program, or transferring large amounts of funds to D.D.T. & E. from the production program, the President submitted a budget amendment increasing the recommended funding for the D.D.T. & E. program by $220 million. These additional funds in fiscal year 1980 will be coupled with a transfer of $70 million from the production program to support the more urgent D.D.T. & E. requirements in fiscal year 1979. The latter action will cause a delay in delivery of the vehicles for the Shuttle operational fleet by 6 to 12 months; however, the revised delivery schedule will support the planned early Shuttle payloads. It is estimated that without the availability of additional funds, the Shuttle program could experience direct cost increases approaching $500 million with indirect costs approaching an additional $500 million.

Production.—The purpose of the Space Shuttle production program is to build a national fleet of operational orbiters. Again, as in his fiscal year 1979 budget request, the President has proposed a four-orbiter fleet retaining an option to buy a fifth orbiter at a later date reversing a decision in the fiscal year 1978 budget request to acquire a five-orbiter fleet. In its fiscal year 1979 action on the NASA authorization and appropriation bills, Congress supported a five-orbiter fleet and authorized and appropriated $4 million for fiscal year 1979 to begin the production of the fifth orbiter.

The four-orbiter fleet will be made up of the refurbished Orbiter 102 (the orbiter used for the orbital flight tests); the structural test article (Orbiter 099) uprated to operational capability; and two new orbiters, Orbiters 103 and 104. If only four operational orbiters are built, and there is a serious orbiter accident, the fleet would have only three orbiters. After the middle 1980's a three-orbiter fleet cannot fly the expected number of missions. This would have serious repercussions for the U.S. space program and especially for the military space program which is planning to use the Space Shuttle for all its missions after about 1985.

Committee comment

D.D.T. & E.—The Committee considers the Space Shuttle development program to be of highest priority. The Nation's space launch requirements are dependent upon the availability of the shuttle system in a timely manner. Delays at this point in the program are very costly. The Committee urges NASA to continue to pursue this development activity with the utmost vigor keeping the Committee informed fully
on progress and problems during the ensuing months. Further, the
Committee desires to be informed on an interim basis of the progress
n the management assessment of the space transportation system ini-
iated by the Administrator.

Production.—The Committee remains convinced of the need for a
ive-orbiter fleet to support space launch requirements during the
980's. It is clear from testimony that, as the availability of the Space
huttle nears and planning for its use intensifies, more utilization, in-
uding longer duration missions, is contemplated by user organiza-
ons. This greater utilization is in addition to the latest revision of the
ASA mission model that continues to demonstrate the need for a
e-orbiter fleet if an assured launch capability is to be offered to users.
owever, with the delay in the delivery schedule of orbiters 099, 103
d 104 due to the need to concentrate resources on the development
ogram, and testimony that no work could be accomplished on the
th orbiter, the Committee is not recommending additional funds
procurement of a fifth orbiter at this time. It urges the Adminis-
tion to reconsider its position on the fifth orbiter in view of critical
ional needs and to provide for the continuation of acquisition of this
icle in the fiscal year 1981 budget.

The House added $27 million to this program for the production
he fifth orbiter. This action was taken prior to receipt of the budget
endment.

SPACE FLIGHT OPERATIONS PROGRAM, $467,300,000

The space flight operations program provides for space transportation system activities other than the Space Shuttle development, test evaluation, and fleet production, and for common supporting functions at the NASA centers. It includes the activities listed in the following table.

Summary of Resources Requirements

Space transportation systems operations capability development	$128, 600, 000
Development, test and mission support	172, 600, 000
Advanced programs	[1] 13, 000, 000
Space transportation system operations	153, 100, 000
Total	467, 300, 000

[1] $1 million to be reallocated to advanced programs from other program elements.

Space transportation systems operation capability development provides for space transportation system development not funded under the Space Shuttle program. These development and support activities are necessary to facilitate an orderly transition to space transportation system operations and to provide the means for expanding space capabilities while reducing the cost of space operations. Principal areas of activity include the spacelab, the space transportation system upper stages, multimission and payload support equipment, mission control center upgrading, payload and operations support, and thrust augmentation of the Space Shuttle.

Development, test, and mission support provides the common engineering, scientific and technical support required at the following NASA centers: Johnson, Marshall, Kennedy and the National Space Technology Laboratories.

Advanced programs provide technical as well as programmatic data for new initiatives for consideration for further development. These activities are conducted to develop new capabilities, to obtain significant performance improvements and reduce future program risks and development costs through the effective use of new technology.

Space transportation system operations integrate the Space Shuttle system, the Spacelab, and the upper stages into a versatile, economic system; accomplish mission planning, provide the operational reoccuring hardware and consumables, and support all launch, flight recovery, crew, and related activities. This funding category will increase significantly over fiscal year 1979 reflecting the preparation for routine Space Shuttle operations expected to begin in 1981.

Committee comment

Except for the advanced programs line item, the space flight operations program efforts are directed primarily to supporting activities to complete the Space Shuttle development program and to preparations for introducing the Shuttle as an operational national space launch system. The Committee believes that bringing the Shuttle into operational use as soon as possible must be the highest priority objective and, therefore, it supports fully the budget request for the space flight operations program.

The Committee notes the increase over the fiscal year 1979 budget plan proposed for advanced program activities in fiscal year 1980. These activities, by identifying future space flight requirements and defining and evaluating alternative technologies, provide a foundation for developing new capabilities in space. One of these is a proposed large deployable antenna demonstration for which the House added $1 million for additional effort on the concept. The Committee agrees with the importance of this proposal and it has also added $1 million to advanced programs activities for this purpose; however, the additional amount is to be reallocated from within other elements of the space flight operations program. The Committee expects NASA to coordinate its efforts on the antenna project with all potential users of such a system.

The Committee recommends $467,300,000 for the space flight operations program, an increase of $4 million above that approved by the House.

EXPENDABLE LAUNCH VEHICLES PROGRAM, $70,700,000

The expendable launch program provides for the centralized procurement of space launch vehicles and launch support services. The program includes the procurement of launch vehicle hardware, launch services, engineering and maintenance, and as required, development of improved vehicle systems, including the necessary ground support equipment. Launch vehicles currently being procured are: Scout, Centaur, Delta, and Atlas-F.

Summary of Resources Requirements

Scout	$7,300,000
Centaur	18,300,000
Delta	43,100,000
Atlas-F	2,000,000
Total	70,700,000

The Scout launch vehicle is the smallest launch vehicle employed by NASA. It is a four-stage, solid propellant vehicle. It is approximately 22.4 meters in length (73 feet) and the first stage has a diameter of 1.14 meters (3.75 feet). It is capable of placing a 180 kilogram (400 pound) payload in a 556 kilometer (330 nautical mile) orbit. Fiscal year 1980 funds for the Scout vehicle will be used for engineering, technical support, vehicle testing and checkout, launch operations, and maintenance of launch facility ground equipment. Funds will also provide for the completion of launch service activity for the Magnetic Field Satellite, and for the initial preparations for launching two cooperative missions in 1981.

The Centaur launch vehicle project provides for the procurement and launch of the Atlas booster stage and the Centaur, a high performance upper stage, that is the most powerful used by NASA. This launch vehicle is used for high energy missions, particularly planetary and those to geostationary orbits. The Atlas/Centaur vehicle is 40 meters (131 feet) in length and has a diameter of 3.1 meters (10 feet). Fiscal year 1980 funds will provide for the post-launch support of the HEAO-C mission (to be launched in late fiscal year 1979), for the procurement of vehicle hardware to provide backup support for users transitioning to the space transportation system, and for the phaseout of the production capability at the prime contractor facilities.

The Delta launch vehicle is the most widely used in NASA's expendable launch vehicle family. It is presently operational in two- and three-stage configurations and has multiburn second stage capability. The first stage is an elongated Thor booster with three, six, or nine strap-on solid motors for thrust augmentation. The second stage, Delta, uses an inertial guidance system for guiding the first-stage booster and the second-stage Delta. The third stage utilizes the Thiokol TE–364 solid motor, which is spin stabilized. In its three-stage configuration, the Delta launch vehicle is approximately 35 meters long (115 feet) and has a diameter of 2.44 meters (8 feet). The fiscal year 1980 funding will be used to continue Delta launch vehicle procurements initiated in prior years, to support launch requirements and to sustain a minimum production capability to back up early users on the space transportation system. Funds are also required for technical and engineering support to sustain vehicle testing, checkout, and launch operations, and to support the maintenance of launch facilities and ground equipment.

The Atlas-F is a refurbished surplus intercontinental ballistic missile managed by the U.S. Air Force for space missions. It has one and one half stages and is used to launch the Tiros-N weather satellites. Fiscal year 1980 funds will be used to modify the vehicle and for vehicle integration with the Search and Rescue missions which will be launched in a piggyback mode on Tiros-N satellites, beginning in 1982.

Physics and Astronomy Program, $337,500,000

The objective of the physics and astronomy program is to understand the physical universe; more specifically, the program is directed to increasing man's knowledge and understanding of the Sun and the Earth's environment, and of the origin, evolution, structure, and composition of the universe, including the Sun, other stars, and celestial bodies. Under this program, research is being conducted to investigate the Earth's magnetosphere, the interplanetary medium, the Sun, the coupling that links these different plasma regions, and the processes that control them. Therefore, the basic scientific research in this program contributes knowledge necessary for the atmospheric research efforts now carried out under space and terrestrial applications programs.

Space-based investigations are carried out in all regions of the electro-magnetic spectrum (cosmic ray, gamma ray, X-ray, ultraviolet, visible light, infrared and radio). Many of these investigations are not possible from the Earth's surface because of the obscuring effects of the Earth's atmosphere.

To achieve the objective of the physics and astronomy program, NASA uses various techniques ranging from theoretical and laboratory research to aircraft, balloon, and sounding rocket flights, small explorer spacecraft, large automated space observations and beginning in the early 1980's, the Space Shuttle and Spacelab.

Summary of Resources Requirements

High energy astronomy observatories	$4, 800, 000
Solar maximum mission	600, 000
Space telescope	112, 700, 000
International solar polar mission	50, 000, 000
Shuttle/Spacelab payloads	41, 300, 000
Explorers	30, 400, 000
Mission operations and data analysis	36, 500, 000
Research and analysis	34, 300, 000
Suborbital programs	26, 900, 000
Total	337, 500, 000

LAUNCH SCHEDULE

Project	Mission	Year
Large observatories:		
High energy astronomy observatories	HEAO–C	1979
Solar maximum mission	SMM	1979
Space telescope	ST	1983
International solar polar mission	ISPM	1983
Space shuttle orbital flight tests	OFT	1980
Spacelab	Spacelab–1	1981
	Spacelab–2	1982
Explorers:		
Solar terrestrial explorers	Dynamics explorer	1981
	San Marco–D/multistationary	1981
	San Marco–D/low orbit	1981
	Solar mesophere explorer	1981
	Active magnetospheric particle tracer explorer (AMPTE) experiment.	1982
Astrophysics explorers	Infrared astornomical satellite	1981
	Cosmic ray isotope experiment	1981
	Cosmic background explorer	1984
	Extreme ultraviolet explorer	1984
Suborbital programs:		
Sounding rockets	About 60 launches per year.	
Balloon flights	About 70 launches per year.	

Note: Shuttle/Spacelab payloads will build to a flight rate of 2 dedicated missions per year in 1984.

The high energy astronomy observatories (HEAO) program con-
sts of three spacecraft to observe and investigate X-ray and other
gh energy sources in the universe. HEAO–1 and –2 launched in
ugust 1977 and November 19, 1978, respectively, have been very suc-
sful. HEAO–1 discovered over 1,000 X-ray sources and HEAO–2
s successfully made detailed studies of specific X-ray sources. The
rd spacecraft HEAO–C (which will be designated HEAO–3 if suc-
sfully launched) will investigate the still higher regimes of gamma
and cosmic ray emissions in the universe. The fiscal year 1980 fund-
will provide for the initial orbital operations of HEAO–C, continu-
n of the guest investigator program, support HEAO–2, and the cost
ciated with the completion of the HEAO prime contract.

he solar maximum mission scheduled for launch in late 1979 will
uct detailed studies of the solar flare processes and the associated
active regions during the next period of high solar activity which
occur in the time between 1979 and 1981. The objective of these
tigations is to explain the underlying physical mechanisms in-
d such as the complex energy transfers and high energy particle

acceleration during the period of solar maximum. Understanding thes processes are of great importance to understanding the solar-terrestria relationships that are now believed to have a substantial effect on th Earth's weather and climate.

The space telescope, operating in the visible and ultraviolet regions of the spectrum, is expected to make major contributions to science in the broadest sense. With its significant technological improvements in resolution and pointing precision, in light sensitivity and wavelength coverage, the space telescope will permit scientists to investigate fundamental questions concerning the structure, the origin, the evolution, scale, and the energy balance in the universe. Such investigations cannot be carried out using ground-based observations due to the obscuring and distorting effects of the Earth's atmosphere. The space telescope will provide the data from which new knowledge will flow to improve man's concept of the universe.

The space telescope will be an automated observatory, and the data from its science instruments will be transmitted to Earth via the tracking and data relay satellite system. It is being designed so as to permit in-orbit maintenance and repair and retrieval by the Space Shuttle for return to Earth, refurbishment, and reuse. Fiscal year 1980 funding requirements will support the detailed design and development of the telescope and its scientific instruments. The critical design reviews for these elements are scheduled for completion by mid-1980's; final design and preliminary flight software will be completed, and fabrication and assembly activities will begin.

The international solar polar mission is a joint NASA and European Space Agency mission designed to obtain the first view of the solar system from above and below the solar equatorial plane. This mission will study the relationship between the Sun and its magnetic field and particle emissions as a function of solar latitude in order to gain insight into the possible effects of solar activity on the Earth's weather and climate. Observation in these high latitude regions of the Sun have not been made before, and the evidence indicates that these regions affect the solar wind conditions as they impact the space around the Earth. Consequently, this mission complements the solar maximum mission and the international Sun-Earth Explorers which will study the solar processes from the solar equatorial plane. To carry out this mission, NASA and ESA will each provide one spacecraft of approximately equal and complementary capabilities. Launch, tracking and data acquisition, and mission operations will be carried out by NASA with ESA participation. Fiscal year 1980 funds will provide for the continued development of the spacecraft system and the experimental hardware.

The objective of the Shuttle/Spacelab science payload development is to advance scientific research in the major disciplines of astrophysics, solar physics, space plasma physics, and astronomy by capitalizing on the unique capabilities of the Space Shuttle and Spacelab. Development activities provide for the design, development, and integration of experiments and special supporting subsystems to be flown on the Shuttle orbital flight tests and Spacelab missions; efforts will also include payload mission operations and data analysis. Two Spacelab payload complements, for Spacelab I and II, are under development. Spacelab I is a joint undertaking by NASA and ESA, and is planned for launch in 1981. Spacelab II is a wholly NASA activity, and will be launched in 1982. The primary objective of Spacelab I is the verification of the performance and capabilities of Spacelab; the secondary objective is to obtain scientific and technical data. The Spacelab II mission is similar to Spacelab I. However, NASA is entirely responsible for its payload, which consists of 13 investigations representing 68 scientists; included in the payload are two major experiments from Great Britain.

The explorer program comprises a number of high-priority missions that can use spacecraft much smaller than the large observatories. Included in the present program are missions to study the atmospheric boundaries, interplanetary phenomenon, and X-ray, ultraviolet, and infrared astronomy. Fiscal year 1980 funding will provide for the continuation of hardware procurement and experiment fabrication for the infrared astronomy satellite explorer, the dynamics explorer, and the solar mesophere explorer; continuation of work of the cosmic ray isotope experiment, and the San Marco–D mission; initial development activity on a new explorer; and definition studies for future explorer missions.

The purpose of mission operations and data analysis is to conduct operations and to analyze data from the physics and astronomy satellites after launch. A substantial number of spacecraft in the physics and astronomy program survive beyond their original planned lifetimes. Operations will continue on a number of these where the investigations have high scientific potential. Fiscal year 1980 funds will provide for the continued operation of the HEAO–2 mission and the related data analysis; extension of operations and data analysis for the orbiting astronomical observatory–3, the small astronomy satellite–3, the international ultraviolet explorer, the international Sun-Earth explorer–A, D, and C, and the atmospheric explorer–5; operations and data analysis for the HEAO–C mission and the solar maximum mission; preparations for science operations for the space telescope and the initiation of a Space Telescope Science Institute.

The research and analysis program provides the scientific and technological base necessary to plan and support space flight projects. Fiscal year 1980 activities include supporting research and technology, Spacelab science payload definition, advanced technological development studies, and data analysis. The upper atmospheric research program, formerly a part of this activity, is being transferred to the space applications program beginning in fiscal year 1980.

The suborbital programs include sounding rockets, balloon, and aircraft platforms for making suborbital observations to provide broad-based scientific and technical support for all of the disciplines in the physics and astronomy programs. The current level of activity includes approximately 60 sounding rockets flights per year; the utilization of two aircraft, a C–141 instrumented with a 91 centimeter infrared telescope and a Lear jet instrumented for unique individual missions; and launch of approximately 70 balloons from 11 global sites.

Committee comment

The Committee notes the extraordinary advances in scientific knowledge, as well as the outstanding technical successes, that have resulted from space science programs over the past two decades. This knowledge has led to a better understanding of the Earth, the planets, and the Earth's space environment. With the Earth as a unique body in the solar system it becomes increasingly important to extend our current base of knowledge in order to preserve the Earth as we know it and to understand fully what the universe itself holds for mankind. The Committee believes the Nation should continue progressive, step-by-step investigations in space science to increase the base of scientific knowledge to maintain direction and purpose in the space science effort and to maintain our scientific and engineering capability to produce successful missions. Accordingly, the Committee requests that NASA give priority attention to initiating development of the gamma ray observatory in fiscal year 1981, an instrument which is designed to conduct a whole-sky survey in the highest energy region of the electromagnetic spectrum. A delay beyond fiscal year 1981 would introduce an unacceptable gap in space science capability.

LUNAR AND PLANETARY EXPLORATION, $220,200,000

The objectives of the planetary exploration program are to understand the present state, origin, and evolution of the solar system; to better understand the Earth through studies in comparative planetology; and to understand the relation of the chemical history of the solar system to the origin and the evolution of life. The program includes scientific missions directed to the exploration of the solar system planets and their satellites, the Moon, the small bodies (comets and asteroids), interplanetary dust, and the charged particles and electromagnetic fields of the interplanetary space.

Summary of Resources Requirements

Galileo	$116, 100, 000
Mission operations and data analysis	59, 000, 000
Research and analysis	45, 100, 000
Total	220, 200, 000

LAUNCH SCHEDULE

Project	Mission	Year
Galileo	Galileo	1982

The Galileo mission will conduct direct and long duration studies of Jupiter and its satellite system. It is considered by the scientific community as a vital link in providing the continuity, balance, and orderly progression needed for the exploration of the solar system. Galileo is a cooperative effort between the United States and the Federal Republic of Germany which will supply the retropropulsion module and selected scientific instruments. Galileo is scheduled to be the first planetary spacecraft to be launched using the Space Shuttle; the interim upper stage will be used to send the spacecraft on its trajectory to Jupiter. The spacecraft is composed of an orbiter which will circle the planet for at least 20 months and make repeated encounters with the Jovian satellites, and a probe which will plunge deeply into Jupiter's atmosphere. The mission is designed to conduct a detailed scientific investigation of Jupiter, its Moon, and its environment, including the first direct measurements of the planet's atmosphere. The fabrication of the spacecraft has begun, and in fiscal year 1980 integration and test of the spacecraft will be completed.

Mission operations and data analysis provide for the operational phase of planetary missions after launch and initial in-flight checkouts are complete. During the fiscal year 1980, the active planetary missions to be supported are Voyager, Pioneer Venus—both the basic and extended mission—Pioneers 6–11, Helios, and Viking. Also included are mission control, computing and other activities which support the tracking, telemetry and command functions for all planetary spacecraft.

Research and analysis contains the supporting activities required to: assure that data and samples returned from flight missions are fully exploited; undertake complementary laboratory and theoretical efforts; conduct advanced studies to define the scientific direction of the planetary program; and develop the required technology to undertake future planetary missions. Of special interest to Congress is the planetary materials research to determine the chemistry, mineral composition, age, physical properties, and other characteristics of the returned Apollo lunar samples and of meteorites that fall to Earth. At the request of the Committee last year, NASA and the National Science Foundation (NSF) studied the lunar sample research program and have concluded that NASA should maintain a balanced program of research on extraterrestrial materials consistent with its mission and that the NSF should recognize the growing importance of planetary science and consider it along with other research areas in its Earth sciences program. As a consequence, NSF funding for extraterrestrial materials research during fiscal year 1979 will be about $0.76 million. NASA funding for fiscal year 1979 is $3.7 million made up of the $1 million congressional appropriation, $1.3 million taken from forward-funded lunar sample research, and $1.4 million reallocated from other esearch and analysis funds. For fiscal year 1980, research and analysis ontains about $5 million for extraterrestrial materials research; bout $4 million of these funds will be used for lunar sample research. SF will continue to support extraterrestrial materials research as rt of their Earth sciences program. However, such research must mpete with other proposals in that program. Therefore, there is separate identified funding for extraterrestrial materials research the NSF fiscal year 1980 budget.

mmittee comment

For the reasons stated in its comment on the physics and astronomy gram, the Committee believes it is also important for the Venus iting imaging radar (VOIR) project to be started as soon as sible. This project will determine surface and atmospheric charristics of this nearby planet, expanding the data base from the essful Pioneer Venus probe project and prior Venus missions. The mittee, in recognition of budgetary constraints, is not recommendroceeding with the VOIR in fiscal year 1980; however, the Come requests that the VOIR project be given the highest priority new start in formulating the fiscal year 1981 budget.

LIFE SCIENCES PROGRAM, $43,900,000

The objective of the life sciences program is to discover the effects of the space environment on life and facilitate the safe and useful participation of men and women in space activity and to understand the basic mechanisms of biological and biochemical processes both on Earth and in space. The two major thrusts of the program are flight and ground-based experiments exploring the physiological effects of the space environment on humans and studies of planetary biology with special emphasis on the origin and distribution of life in the universe—a problem of profound philosophical and scientific significance.

Summary of Resources Requirements

Life sciences flight experiments	$12,900,000
Vestibular function research	3,700,000
Research and analysis	27,300,000
Total	43,900,000

The life sciences flight experiments project provides for the planning, development, inflight operation, and analysis of biomedical, biological, and life-support experiments and equipment. Seven life science experiments are being prepared for the Spacelab 1 mission. These experiments are directed to understanding the effects of space flight on humans, such as changes in the vestibular function, especially motion sickness, hematological tendencies, and the effects of space radiation. The effect of gravity on plant growth and biological rhythms will also be investigated.

Vestibular function research provides for the development of a reusable flight facility to conduct investigations on the otolith and the neurosensory response mechanisms associated with motion in a zero gravity environment. Development of this inflight facility will be initiated during fiscal year 1980.

Research and analysis supports the ground-based research in space-related biological and biomedical problem areas that have been identified in previous flights or have been determined to be highly probable problem areas in future flights. The program is comprised of the following elements: biomedical research, space biology, life support systems, planetary biology, and planetary protection. The biomedical research is directed to understanding the physiological and behavioral effects of space flights and the attendant hazards to men and women for the purpose of enhancing their capabilities and safety in space. Space biology is directed to the role of gravity on biological processes so as to determine how gravity influences the function and shapes of various life forms. Life support activity concentrates on finding cost-effective alternatives to presently utilized open-loop life-support systems to minimize the requirement for expendables and supplies on flights of long duration. Planetary biology research is directed to understanding the origins and distribution of life or precursor molecules of life throughout the universe. The planetary protection effort is directed to the control of biological and particulate contamination of all outbound spacecraft and the development of methodologies and strategy for controlling the biological and particulate contamination of sample return missions.

SPACE APPLICATIONS PROGRAM, $334,300,000

The objective of the space applications program is to conduct research and development activities that demonstrate space-related technology, systems, and other capabilities which can be effectively used to meet the direct and practical needs of mankind. These activities are shown in the following table. In each of these areas, programs are being conducted with the objective of contributing to the solution of pressing national and international problems and needs.

Summary of Resources Requirements

Resource observations	143, 400, 000
Environmental observations	117, 200, 000
Applications systems	24, 200, 000
Technology transfer	10, 300, 000
Materials processing in space	19, 800, 000
Space communications	19, 400, 000
Total	334, 300, 000

FLIGHT SCHEDULE

Project	Mission	Calendar year
Resource observations:		
Earth resources technology satellites	Launch of Landsat-D	1981.
Magnetic field satellite	Launch of Magsat	1979.
Shuttle/Spacelab payload development	Orbital flight test missions	1980.
	Spacelab payloads	Beginning in 1981.
Environmental observations:		
Stratospheric aerosol and gas experiment	Launch of Sage	1979.
Global atmospheric research program	1st GARP global experiment	1978–79.
Shuttle/Spacelab payload development	Orbital flight test missions	1980.
	Spacelab payloads	Beginning in 1981.
Earth radiation budget experiment	Launch of ERBS–A	1983.
	ERB instrument to be launched on NOAA F & G	1982–84.
Halogen occultation experiment	HALO E instrument to be launched on Spacelab mission and ERBS–A.	1982–83.
Materials processing in space:		
Sounding rocket missions	Launch about 2 annually	1979–80.
Shuttle/Spacelab payload development	Flight of materials experiment assembly	Beginning in 1980.
	Spacelab payloads	Beginning in 1982.
Space communications:		
Search and rescue mission	Instruments to be launched on NOAA (Tiros–N series) spacecraft.	1982–84.
Shuttle/Spacelab payload development	Flight of adaptive multibeam antenna	1982.
GOES[1]	Launch of GOES D through F	1980–83 (subject to callup by NOAA).
NOAA[1]	Launch of NOAA A through G	1979–84 (subject to callup by NOAA).

[1] National Oceanic and Atmospheric Administration (NOAA) funded.

Resource observations address the needs for information of vital cioeconomic value to the United States and of importance to global manitarian concerns such as the world food and energy supplies. e principal objectives of this activity are to develop the use of space l space technology to provide the Nation with a global capability the monitoring and management of essential agricultural com- dities, water resources, minerals and petroleum, and land use, and tfully for earthquake prediction. Inherent in these activities is involvement of the users of space-derived information, beginning h the development of the hardware, test, verification and applica- of the data and information.

nvironmental observations are directed to understanding the dy- ics and limitations of our environment which is essential to man's long-term survival. This program includes improving the understa ing of processes in the atmosphere and oceans; providing space obs vations of parameters involved in these processes; and extending t capability to predict environmental phenomena and their interacti with human activities. The interactions among these processes and t interrelationships of the atmosphere, oceans, land and space enviro ment can only be studied on a global basis from space. Capitalizing this global perspective, the environment observations program is d rected to the study of tropospheric and stratospheric pollution, mea surement of the Earth's radiation budget, improvement of numeric weather prediction, and development of remote sensing of ocean sur faces. The program includes research efforts directed to these activitie and the development of demonstration satellites and equipment tha give the spatial and spectral view of the radiative chemical and dy namic processes occurring in the atmosphere and the oceans.

Application systems support the space applications program in th areas of flight system support, data systems and integrated payload planning. Flight systems support includes both research aircraft and payload integration for Shuttle/Spacelab missions. Airborne research facilities are used for the definition and testing of remote sensing instruments; for the development and demonstration of remote sensing interpretive techniques; for the verification of data acquired by spacecraft sensors; and for direct sensing measurements for stratospheric research. The objective of the data systems effort is to extend current technology and techniques to accommodate the increased volume, complexity and high rates of data received from spacecraft and to reduce origin-to-user transmission times. Integrated payload planning includes the analysis and formulation of payload requirements for the space transportation system.

The objective of the technology transfer program is to provide for the validation, transfer and widespread dissemination of proven remote sensing technology applications to operational users. This is accomplished by conducting demonstration, verification, and the transfer of total applications systems in representative user settings with participating user organizations; working with regional remote sensing programs involving State and local agency personnel; and continued communication with the user community to determine user needs and to inform users of existing and planned technological capabilities.

Materials processing in space emphasizes the fundamental science and technology of processing materials under conditions that allow detailed examination of the constraints imposed by gravitational forces. The goal is to test and demonstrate the unique capabilities of the space environment for materials processing and to provide opportunities for independently funded users to exploit space flight for processing activity related to their needs.

The objectives of space communications activity is to provide for the efficient and effective use of the limited geostationary orbit and radio spectrum resources and to maintain United States leadership in satellite communications. During fiscal year 1980 NASA will be working on the development of multibeam antennas and onboard satellite switching techniques. User experiments and demonstrations on existing experimental satellites will continue. Efforts will continue on the search and rescue mission—a system which will employ sensitive receivers and high gain antennas on weather satellites to demonstrate the feasibility of obtaining a significant increase in the capability to detect and locate distress signals from aircraft and certain marine vessels. This is an interagency program and is being conducted jointly with Canada and France; discussions for the participation of the Soviet Union also are underway.

Committee comment

Resource observations.—Resource observations characterized by the highly successful Landsat series of satellites continue to demonstrate the contribution of space-based technology to national needs. The multispectral resources sampler is an important remote sensing device designed to provide better data with high reliability. The Committee recommends initiating development of this instrument in fiscal year 1980 and has added $2 million to the space applications program for this purpose. This action agrees with that of the House.

Environmental observations.—NASA has defined a national oceanic satellite system (NOSS) in conjunction with the National Oceanic and Atmospheric Administration and the Department of Defense. This system is designed to provide ocean condition data on an operational basis similar to weather data received routinely from the operational weather satellites. NASA would develop the space system and the other agencies and priority users would provide for the ground system to assure a fully integrated and useful data distribution system. The Committee concurs with the House on the importance of the NOSS system; however, with the need for budgetary restraint, the Committee did not believe it should support a new start in this fiscal year. Joint system definition and funding discussions with DOD and NOAA should be continued so that a fully unified project may be initiated at the earliest possible time.

The Committee recommends $334,330,000 for the space applications program, an increase of $2 million above the budget request.

TECHNOLOGY UTILIZATION, $12,100,000

The technology utilization program objectives are to transfer new knowledge and innovative technology resulting from NASA aeronautical and space research and development programs for application and use by U.S. industry, by the medical community and by public sector areas such as transportation, environment, urban development, and public safety. Specific objectives are to: expedite and facilitate the application and use of new technology, encourage secondary use of NASA technology, understand more fully the technology transfer process and its impact on the economy, and develop applications of aerospace expertise.

Summary of Resources Requirements

Technology dissemination	$3, 800, 000
echnology applications	4, 400, 000
rogram evaluation and support	1, 500, 000
ivil systems	2, 400, 000
Total	12, 100, 000

Technology dissemination is the announcement and followup communications to the general public of available technology from the aeronautics and space program in order to generate interest and awareness in the industrial community. During 1978, over 60,000 industrial inquiries were received and responded to because of NASA technology announcements.

Technology applications usually take the form of a multidisciplinary team effort which responds to public sector technical problems in areas such as agriculture, mine safety, transportation, urban construction, medicine, and rehabilitation for the handicapped. In 1980, these technology application teams will focus on priority problems encountered in State and local governments.

Program evaluation and support is directed to research and studies to evaluate and quantify the benefits resulting from the technology transfer mechanisms. These studies and analyses examine the benefits resulting from direct as well as from indirect or secondary uses of NASA research and development. Some effort is directed to the development of the methods and procedures for increasing the efficiency and effectiveness of all programs under the technology utilization program.

The civil systems effort focuses NASA's institutional expertise on specific nonspace problems in the areas of environmental monitoring and control, agricultural productivity, and deep ocean survey and exploration. In addition, new projects are added that explore innovative applications of aerospace-derived technology to non-aerospace-oriented disciplines. One example is the extension of aerospace technology to automated water monitoring systems for measuring the contaminants in potable water and monitoring the quality of natural water bodies.

AERONAUTICAL RESEARCH AND TECHNOLOGY PROGRAM, $309,300,000

The objectives of the aeronautical research and technology program are to advance the science and technology of aeronautics to insure safer, more economical, efficient, and environmentally acceptable air transportation systems which are responsive to current and projected national needs; to maintain the strong competitive position of the United States in the international marketplace; and to support the Department of Defense in maintaining the superiority of the Nation's military aircraft.

The fiscal year 1980 program supports these objectives by stressing the technology areas judged to be the most critical by scientists, engineers, and users within and outside the Federal Government. Emphasis will be placed on improving aircraft energy efficiency and performance, reducing noise and pollution, improving safety and terminal area operations, and advancing long-haul and short-haul transportation concepts.

Summary of Resources Requirements

Research and technology base	$117,500,000
Systems studies	3,200,000
Systems technology programs	115,100,000
Experimental programs	73,500,000
Total	309,300,000

The research and technology base activities are directed to maintaining a strong position in the disciplines of aerodynamics, propulsion, avionics and flight controls, human-vehicle interaction, materials and structures. The strength of this generic research and technology effort is essential to enhancing the growth of new and improved aeronautical products. The program provides focused research and technology development efforts for each of the major classes of aeronautical vehicles: conventional takeoff and landing aircraft, rotorcraft, general aviation aircraft, vertical/short takeoff and landing aircraft, supersonic cruise aircraft, and high performance aircraft.

Systems studies are conducted to identify the need for, and assess the impact of, technology advances. The objective is to determine the feasibility, technology requirements, costs, benefits, and impacts of advanced civil and military aeronautical systems through mission, system and conceptual design studies. These studies integrate the mutual effects of technology and a wide range of related factors. Significant recent results include identification of the technology needs of the manufacturers and operators of small "commuter" transport aircraft; quantitative evaluation of the potential impact of technology on future air cargo aircraft systems; and, initial assessments of the applicability of air cushion landing gear and variable wing camber to the various aircraft classes.

Systems technology programs are directed to accelerate transfer of the various technologies (such as materials and structures, propulsion, avionics and flight control, operating systems, new aerodynamics, human vehicle interface systems, rotorcraft technology, and high performance aircraft systems) to design and application on new and existing aircraft.

Experimental programs are directed to the development and demonstration of specific subsystem technologies that will substantially improve the performance and reduce the cost of operating aircraft. For fiscal year 1980, these include efforts on the energy efficient engine, highly maneuverable aircraft technology, and composite primary air-
raft structures.

ommittee comment

Supersonic technology.—The Committee recognizes the responsi-
ility of NASA to pursue all elements of aeronautical research.
ccordingly, it has supported a low-level funding commitment to
personic technology—variable cycle engine and supersonic cruise
rcraft research—over the past several years. Higher funding levels
ve not been advanced because of the necessity to address more imme-
ate needs such as the aircraft energy efficiency program. The Com-
ttee also recognizes, as stated in testimony, that a point can be
ched in technology advance where it is necessary to make a commit-
nt to a more aggressive program or to terminate the effort for the
k of productive return on investment. The variable cycle engine
oject appears to have reached that point. Accordingly, the Commit-
requests that NASA decide whether a formal, targeted develop-
t effort is warranted and if so, present such a proposal. In the
ntime, the Committee agreed to continue the variable cycle engine
rt for another year at the $9 million level, $4 million above the
est, and $4 million below the amount approved by the House.

Advanced rotorcraft technology.—Three years ago NASA initiated a rotorcraft technology program to respond to an assessment of the potential market for rotorcraft and to the state of U.S. technology to compete for that market. Subsequently, NASA focused its rotorcraft activities at the Ames Research Center. It is the Committee's view that the United States must move expeditiously and aggressively to advance its rotorcraft technology if it is to maintain a leadership role equivalent to that held in commercial jet transports. Accordingly, the Committee has added $5 million to the aeronautical research and technology program to initiate an advanced rotorcraft technology development activity.

Lighter-than-air technology.—In hearings conducted by this Committee on February 27 and March 1, 1979, considerable interest was expressed by industry and Government witnesses as to the potential value of lighter-than-air (LTA) applications in meeting national needs for lifting and emplacing very heavy loads and for conducting long endurance patrol, rescue and reconnaissance missions. The Committee believes that construction of a flight research vehicle is necessary to verify LTA heavy lifter technology. Accordingly, the Committee requests that NASA initiate definition of a LTA heavy lifter technology verification program with the objectives of integrating completed research in aerodynamics, structures, rotor-lift, and computer control, and of requesting funds for a flight research vehicle in the fiscal year 1981 budget or the fiscal year 1982 budget at the latest. In addition, NASA should review the requirements of Federal agencies for LTA vehicles for patrol, rescue, and reconnaissance and report to the Committee on or before March 1, 1980.

SPACE RESEARCH AND TECHNOLOGY PROGRAM, $119,400,000

The objectives of the space research and technology program are to provide the technological base necessary to support current and future space activities, to formulate technological options for the future, and to advance approaches for further reducing the costs of space activities. Program effort is directed to those areas judged most critical by advisory groups, chosen from both in-house and out-of-house personnel and the users of the technology. The program is designed to develop the technology needed to enhance planned missions and to make possible future missions which are beyond current capabilities, with emphasis on increasing performance and reducing the costs and risk in the areas of information systems, spacecraft systems, power systems, and transportation systems. As required, the program demonstrates the readiness of new technology to assure its acceptance for utilization on a mission.

Summary of Resources Requirements

Research and technology base	$80,100,000
Systems studies	2,200,000
Systems technology programs	16,000,000
Experimental programs	18,100,000
Standards and practices	3,000,000
Total	119,400,000

The research and technology base activities are directed to the disciplinary areas of materials, structures, sensing and detection, guidance and control, data reduction and distribution, chemical and electrical propulsion, space energy systems, and aerothermodynamics to meet the needs of current and future space activities. Strong multidisciplinary research and technology efforts will be maintained in all of these areas during fiscal year 1980.

The objectives of systems studies are to identify and evaluate the technological requirements of advanced space systems; to investigate future space alternatives; to assess the effects of advanced technology; and to provide a data base to support advanced technology selection and program planning. Fiscal year 1980 efforts will continue to focus on these themes. Continuing emphasis will be placed on technology directed to Earth applications. Other efforts that will be pursued are the technologies associated with planetary sample return missions, orbital transfer, nonterrestrial materials, and advanced concept development studies to serve as a basis for modeling future technology requirements.

Systems technology programs will emphasize: extending the temperature limits for composite materials to allow their use on advanced space transportation systems; providing advanced technology for materials, structures, assembly and controls for future space systems; the definition of system requirements, configurations, and techniques for efficient and timely transfer of space-acquired data to the user community while reducing costs; and, demonstrating the technology readiness of an advanced planetary orbiting spacecraft propulsion system which utilizes high performance space storage flourine-hydrazine propellants. Systems technology also emphasizes the development of technology for advanced space communication systems.

Under experimental programs, experiments will be integrated into the long duration exposure facility which is scheduled to be flown on the 14th Shuttle flight in about October 1981. In addition, the development and integration of other experiments will be conducted for early Shuttle and Spacelab missions using the Shuttle/Spacelab as a research vehicle to conduct multidisciplinary research.

In standards and practices, emphasis is placed on completion of tandard hardware for use on Space Shuttle missions, product im- rovement through component upgrading, and on the improvement f program practices in such areas as specifications, testing, and flight roject analysis.

ommittee comment

Consistent with the Committee's support for the study of advanced itiatives in space, such as a large deployable antenna, the Committee recommending the addition of $3 million to this program for addi- nal effort on the development and testing of large space structures. is clear that lightweight, strong, and easily assembled and deployed uctures are basic to the development of space platforms to apply ce-based systems to support national needs in communications and er areas.

ENERGY TECHNOLOGY PROGRAM, $5,000,000

he objective of the energy technology program is to relate NASA's nautical and space technology, engineering, scientific and man- ial expertise and existing facility capabilities to the enery re- ch and development needs of the Department of Energy and other agencies. These activities contribute to the search for solutions to energy problems and needs on Earth. The program objectives are achieved through investigations of the potential application of these NASA capabilities to energy related problems and the development of plans for reimbursable support work which NASA can appropriately perform for the Department of Energy. Energy-related reimbursable efforts done by NASA for the Department of Energy will total approximately $216 million during fiscal year 1979. It is estimated that this amount will be approximately $200 million in fiscal year 1980.

Summary of Resources Requirements

Energy technology	$5,000,000

During fiscal year 1980, NASA's energy efforts will focus on areas such as the Stirling engine, gas turbine materials and combustion techniques, coal cleaning and conversion, industrial process energy conservation and integrated solar power systems.

Committee comment

The Committee remains convinced that the energy technology identification and verification activities supported by this program are a most effective method for assuring the maximum application of technology developed in aeronautical and space activities to national energy needs. A relatively small investment, used as seed money, continues to pay substantial dividends. Therefore, the Committee is recommending $5 million for the energy technology program, an increase of $2 million to enhance the identification and verification activity.

TRACKING AND DATA ACQUISITION PROGRAM, $332,800,000

The purpose of the tracking and data acquisition program is to provide vital tracking and data acquisition support to meet the requirements of all NASA flights. In addition, support is provided, as mutually agreed, for projects of the Department of Defense, other Government agencies, commercial firms, and other countries and international organizations engaged in space research endeavors. This support includes tracking and data acquisition for: sounding rockets, research aircraft, Earth orbital and suborbital spacecraft, lunar and planetary spacecraft and deep space probes. The types of support provided include: (1) tracking to determine the position and trajectory of vehicles in space; (2) acquisition of scientific and Earth applications data from onboard experiments and sensors; (3) acquisition of engineering data on the performance of the spacecraft; and launch vehicle systems; (4) transmission of commands from ground to spacecraft; (5) communication with astronauts and acquisition of biomedical data on their condition; (6) communication of information between the various ground facilities and central control centers; and (7) processing of data acquired from the launch vehicles and spacecraft. This support is essential for achieving the scientific, technical, and applications objectives of all flight missions, for executing the critical decisions which must be made to assure the success of these flight missions, and in case of Space Shuttle missions, to insure the safety of the astronauts.

Tracking and data acquisition is accomplished by the use of a world-wide network of NASA ground stations. These facilities are interconnected by ground communications lines, undersea cables, and communications satellite circuits which are leased from the common carriers, both foreign and domestic. This interconnection provides the communications capability needed between spacecraft in space and control centers in the United States from which the flights are directed. To meet the support requirements demanded by the wide variety and large number of flight missions, NASA has established two types of facilities; these are the Spaceflight Tracking and Data Network, which supports Earth orbital scientific and applications spacecraft, and the Deep Space Network, which supports planetary and interplanetary flight missions.

Computation facilities also are provided to process into meaningful form the huge amounts of data which are collected. In addition, instrumentation facilities are provided to support sounding rocket launchings and flight testing of aeronautical rsearch aircraft.

Summary of Resources Requirements

perations	
ystems implementation	$275,800,000
dvanced systems	46,400,000
Total	10,600,000
	332,800,000

The operations program will continue to support a workload of
pproximately 60 automated Earth-orbiting and planetary space-
aft; and to provide the prelaunch activity required for upcoming
ssions. Most importantly, tracking and data acquisition operations
ll support the Shuttle orbital flight tests which will use the
aceflight Tracking and Data Network plus additional wide-
d communications circuits to transmit the high volume of data
ween the Shuttle and the ground control facilities. The Deep Space
work will continue to support the planetary and interplanetary
e flight missions. These include Pioneer 6–11, the Pioneer-Venus,
two Viking landers, the two Helios spacecraft, and the two
ager spacecraft. Also, the Deep Space Network will begin prepara-
to support the International Solar Polar and Galileo missions.
he objectives of the systems implementation activities are to
tain the existing ground support capability at a high level of
ciency and reliability in order to meet the aggregate support needs
e many and varied space missions and to prvoide augmentation of
apability, as necessary, to meet special requirements of individual
projects. The systems implementation effort encompasses the
eering, design and procurement of the necessary equipment, sub-
ns, and systems to meet the requirements of the flight missions
ther research projects. This includes the related documentation
sic software, the provision of spares, and the acceptance, test-
tegration, and checkout of the equipment. Fiscal year 1980 funds
quired to continue the implementation of new capabilities for
ing approved missions, including the International Solar Polar
n, Galileo, Space Telescope, Space Shuttle, and the Spacelab
ms.

er advanced systems, studies and developments are conducted
develop new and improved capabilities to meet the needs of

upcoming missions, (2) investigate advanced techniques and identify the required technology needed to support future missions, and (3) perform systems studies to find the lowest life cycle cost solutions for supporting future space missions. One of the specific objectives which characterizes the efforts under advanced systems is to improve the ground-based navigation accuracy of the Deep Space Network. Currently the accuracy of the Deep Space Network for tracking and guidance out to the distance of Mars is about 100 kilometers; future planetary spacecraft will require tracking to an accuracy of 5–10 kilometers at the distance of Mars. New navigational techniques, based on very long baseline interferometry, promise, under some conditions, a further improvement in accuracy by a factor of 100.

In January 1981, NASA will begin using the tracking and data relay satellite system (TDRSS) service procured under lease from a private contractor. The TDRSS will consist of two relay communication satellites in geostationary orbit and a ground terminal located at White Sands, N. Mex. This system will relay data, commands, and voice to and from most Earth-orbital spacecraft to the ground control centers in the United States. When the TDRSS service becomes operational, most of the ground stations of the spacecraft tracking and data network will be closed; the deep space network will not be affected. TDRSS has been under development since 1975. During the preliminary design review in 1977, it was discovered that certain radar stations operating in eastern Europe would cause unacceptable radio interference in the system. To correct this interference problem, substantial redesign was required which has now been completed. As a consequence, the total cost of TDRSS will increase by about $80 million over the 10-year operational service period.

CONSTRUCTION OF FACILITIES

Summary

Item	*Amount*
1. Modification of static test facility, Ames Research Center	$2, 900,000
2. Construction of large aircraft maintenance dock, Hugh L. Dryden Flight Research Center	1, 500, 000
3. Rehabilitation and modification of flight operations facilities, Ellington Air Force Base	1, 700, 000
4. Modifications to central instrumentation facility, John F. Kennedy Space Center	1, 200, 000
5. Modifications to operations and checkout building, John F. Kennedy Space Center	950, 000
6. Rehabilitation of roof, launch control center, John F. Kennedy Space Center	600, 000
7. Modifications of model support system 8-foot high temperature structures tunnel, Langley Research Center	1, 410, 000
8. Modifications to 8-foot transonic pressure tunnel, Langley Research Center	2, 000, 000
9. Modification of transonic dynamics tunnel, Langley Research Center	970, 000
10. Rehabilitation and modification of gas dynamics laboratory, Langley Research Center	3, 600, 000
11. Modifications to central air system, various buildings, Lewis Research Center	5, 720, 000
12. Modifications to various buildings, Marshall Space Flight Center	2, 640, 000
13. Rehabilitation of roofs, various buildings, Marshall Space Flight Center	900, 000
14. Rehabilitation of roof, Phase I, building 103, Michoud Assembly Facility	3, 100, 000

Summary—Continued

Item	Amount
15. Construction of facilities operations shop building, Wallops Flight Center	1,100,000
16. Large aeronautical facility: Construction of national transonic facility, Langley Research Center	12,000,000
17. Large aeronautical facility: modification of 40- by 80-foot subsonic wind tunnel, Ames Research Center	33,900,000
18. Space Shuttle facilities at various locations as follows:	
(a) Modifications to launch complex 39, John F. Kennedy Space Center	17,100,000
(b) Modifications to crawler transporter maintenance facility, John F. Kennedy Space Center	1,250,000
(c) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility	6,900,000
(d) Minor Shuttle-unique projects, various locations	2,500,000
19. Space Shuttle payload facilities at various locations as follows:	
(a) Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center	2,610,000
(b) Modification and addition to materials sciences laboratory, Ames Research Center	1,640,000
20. Repair of facilities at various locations, not in excess of $500,000 per project	12,000,000
21. Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project	19,790,000
22. Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project	3,500,000
23. Facility planning and design not otherwise provided for	14,000,000
Total	157,600,000

The National Aeronautics and Space Administration's budget re-
quest of $157,600,000 for the fiscal year 1980 construction of facilities
rogram consists of 21 line items. Of the total amount requested,
95,100,000 is scheduled for facilities projects and related activities
o support space research functions and $62,500,000 is for aeronautical
search facilities. The request includes $11,210,000 for cost-effective
ergy reduction projects in both program areas which are estimated
return the investment in less than 3.5 years.

The Space Shuttle facilities funding of $31,450,000, representing the
gest segment of space-related projects, will continue the provision
manufacturing, test, and launch facilities for the space transporta-
n system initiated in prior years. The major elements of the fiscal
r 1980 Shuttle program involve modifications and additions to
ch pad B at the Kennedy Space Center and to the Michoud
embly Facility, the location for manufacturing the external fuel
s for the Shuttle.

he aeronautical facilities requirements are characterized by the
pletion of funding for two large aeronautical facilities. Of the
of $45,900,000 for these two wind tunnels, $12,000,000 is planned
he final increment of funding for the construction of the National
sonic Facility at the Langley Research Center and $33,900,000
eduled to complete the funding for modifying and expanding
pability of the existing low-speed, 40- by 80-foot wind tunnel
Ames Research Center. Both of these projects have been funded
fiscal years. In addition to these two large research facilities,
thorization bill provides for six smaller aeronautical facility

projects estimated to cost $16,600,000, all of which involve rehabilitation or modification of existing facilities rather than the construction of new facilities.

The fiscal year 1980 authorization will continue the annual program to rehabilitate and modify existing facilities to update their capabilities to support new technologies and changing research needs. Similarly, the budget will support a program for the construction of new facilities and additions to existing facilities. The latter are minor projects, not to exceed $250,000 each, which also address changing research requirements. A large segment of NASA facilities are now 16 to 30 years old, and have reached the point where major systems, particularly roofs, building walls, and utilities, have deteriorated and require major repair and/or replacement. Accordingly, a new line item entitled "Repair of facilities" is included in the authorization bill this year to address this requirement. Repair work is distinguished from rehabilitation and modification activity in that repair emphasizes restoration to substantially the original configuration with the intent of preserving the facility's original capability. Rehabilitation is focused on improvements and thus enhancing the capabilities and usefulness of existing facilities. Projects in the repair line item, like those in the rehabilitation and modification and minor constructon line items, are selected from a backlog of outstanding work, implemented on a priority-of-need basis, and centrally managed within NASA to provide the best response to agencywide needs. The fiscal year 1980 budget provides $35,290,000 for these three line items.

The remaining line items in the bill provide for facilities for processing Space Shuttle payloads, provide for major rehabilitation, modification, and/or construction of support facilities, and provide for facility planning and design. The latter activity for which $14 million is included supports engineering studies; the preparation of reports, cost estimates, and construction schedules for proposed projects; the preparation of final construction contract plans, specifications, schedules, and cost estimates for approved projects; and the development and updating of master plans for field installations. The fiscal 1980 program will provide $1,150,000 to continue the highly successful engineering analysis effort in support of the NASA energy reduction program which has reduced agency consumption 37 percent from the base year of fiscal year 1973. Facility planning and design funds will also support engineering studies, design, and evaluation of a proposed numerical aerodynamic simulation facility for advanced aeronautical research.

Committee comment

The Committee recognizes the need for an organized repair program to protect the investment in facilities and to assure continuity of research and development activities. Therefore, the Committee supports fully the definition and establishment of a centrally managed repair activity within the construction of facilities progam. Consistent with this position, the Committee has separated out from two heterogeneous modification projects two projects clearly within the repair definition and has established these as line items 1(b) (6) and (14) in the bill. The House established the same line items in its action on the authorization request.

RESEARCH AND PROGRAM MANAGEMENT

SUMMARY

Fiscal year 1980	Budget request	House action	Senate committee action
Personnel and related costs	$727,176,000	$727,176,000	$727,176,000
Travel	19,797,000	19,797,000	19,797,000
Facilities services	113,190,000	113,190,000	113,190,000
Technical services	42,288,000	42,288,000	42,288,000
Administrative support	62,449,000	62,449,000	62,449,000
Total	964,900,000	964,900,000	964,900,000

The research and program management appropriation includes funding for research in Government laboratories, management of programs, and other activities of the National Aeronautics and Space Administration. Principally, it is intended to: (1) provide the civil service staff to conduct in-house research, and to plan, manage, and support the research and development programs; and (2) provide other elements of operational capability to the laboratories and facilities such as logistics support (travel and transportation, maintenance, and operation of facilities) and technical and administrative support.

Approximately three-fourths of this authorization recommendation
for fiscal year 1980, or $727,176,000, is required to pay the salaries and
related personnel costs of NASA employees during the fiscal year. This
amount will support 22,563 permanent positions, of which approxi-
mately 65 percent will be occupied by scientific, engineering, and
upporting technician personnel. Programmatically, 18,642 employees
will be assigned to space and 3,921 employees to aeronautics research
ctivities. The recommended staffing plan for fiscal year 1980 repre-
ents a reduction of 268 positions from the on-board strength Sep-
ember 30, 1979, and a total reduction of 674 positions over fiscal years
979 and 1980. NASA personnel strength has declined each year from
e agency high of about 33,900 in 1966, and now is at a point where its
chnical competence to conduct and to manage complex research
tivities and to effectively utilize unique national research facilities,
rticularly in aeronautics, is endangered. In addition, the continuing
nual personnel reductions make it exceedingly difficult to provide
e flexibility to bring in young scientists and engineers to reinvigorate
e work force. The major factor influencing funding requirements for
ASA personnel is the necessity to fund the annual Federal salary
reases which more than offset personnel reductions. For example,
October 1978 Federal pay increase will necessitate a supplemental
propriation of $30,969,000 for NASA for fiscal year 1979. The total
SA personnel cost estimate for fiscal year 1980 in this bill is
52,000 above the current estimate for fiscal year 1979.

he remaining funding in this appropriation category is, for con-
ence, grouped into the functional budget categories of travel,
lities services, technical services, and management and operations
ort for which a total of $237,724,000 is recommended. After net
stments, this amount is about $17 million above the fiscal year 1979
et plan primarily due to rising utility rates and wage increases for
rt contractor personnel at the several installations. NASA has
way an aggressive energy conservation and reduction program

achieving a level 37 percent below fiscal year 1973; however, continuing wage increases for support contractor personnel and increases in utility rates more than offset savings originating from energy usage reductions.

ESTIMATED COSTS

The NASA request for new budget authority for fiscal year 1980, including the budget amendment, was $4,945 million. This bill, H.R. 1786, as recommended by the Committee, authorizes appropriations to the National Aeronautics and Space Administration in the amount of $4,961 million for that fiscal period. This amount is $16 million above the budget request.

In accordance with the requirements of section 252(a) of the Legislative Reorganization Act of 1970, the estimates for the next 5 years of NASA budget authority are as follows:

[In millions of dollars]

	NASA estimate	[illegible]
Fiscal year:		
1980	4,945	[illegible]
1981	4,866	[illegible]
1982	4,575	[illegible]
1983	4,235	[illegible]
1984	3,875	[illegible]

The above estimates are future funding requirements for the continuation or completion of the NASA programs (including the development and production of the Space Shuttle) provided for in this bill. No provision is made for the initiation of new programs and projects after fiscal year 1982. Further, these estimates do not provide for administrative adjustments that may be required, such as Federal employee pay increases, and no provision is made for the impact of inflation beyond fiscal year 1980. Future year budgets must, of necessity, reflect the foregoing adjustments and in addition, will undoubtedly include requests for new programs and projects as currently approved activities are completed. The Congress will have an opportunity to exercise its judgment on these new programs and projects when authority and funds are requested to proceed with them. The Committee does expect, however, that the budgets for the fiscal years through 1984 will approximate $4.9 billion, in fiscal year 1980 budget dollars, as new initiatives are proposed from studies currently underway and as developments demonstrate the need for and the worthiness of new starts in space science, space applications, and aeronautics, building on and capitalizing on the data and experience already acquired.

With respect to section 308(a) of the Congressional Budget Act of 1974, House Concurrent Resolution 107 establishes a level of $5.7 billion for function 250 within which $4.2 billion would be allocated for NASA space activities (Senate Budget Committee Mission 2). This bill would authorize $4.4 billion for these activities, an amount $200 million above the subtotal for space. This increase is due to the inclusion of the President's budget amendment submitted on May 14, 1979.

a date that precluded consideration of the additional funds in the First Concurrent Resolution on the budget for fiscal year 1980. The remaining amount in this bill, $566 million, falls within function 400 with a House Concurrent Resolution 107 total of $19.45 billion, a level which, the Committee believes, can accommodate the funding for aeronautical research activities in this bill. These activities are authorized at $9 million above the President's budget request.

This bill contains no budget authority to provide financial assistance to State and local governments.

The Committee will file a Senate resolution to waive the requirements of section 402(a) of the Congressional Budget Act of 1974 with respect to this bill.

The Congressional Budget Office has submitted to the Committee its estimate on this bill pursuant to section 403 of the Congressional Budget Act of 1974. The CBO submission of June 7, 1979 follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 7, 1979.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the ttached cost estimate for H.R. 1786, the National Aeronautics and pace Administration Authorization Act, 1980.

Should the Committee so desire, we would be pleased to provide urther details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: H.R. 1786.

. Bill Title: National Aeronautics and Space Administration Au-rization Act, 1980.

. Bill Status: As ordered reported by the Senate Committee on nmerce, Science, and Transportation, June 5, 1979.

Bill Purpose: This bill auhorizes appropriations of $4.96 billion he National Aeronautics and Space Administration (NASA) for l year 1980. This authorization level is $16 million higher than President's amended budget request for fiscal year 1980, and rcent above the current fiscal year 1979 appropriation ($4.35 bil-excluding a pending supplemental request of $185 million). addition, the bill authorizes the appropriation of additional sums y be necessary for increases in salary and employee benefits rized by law. The bill also amends the National Aeronautics pace Act to increase the personal and property damage claims nt ceiling and to authorize NASA to provide liability insurance ate space vehicle users.

5. Cost Estimate:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	198
Estimated Authorization Level:					
Function 250	4,395.1	—	—	—	—
Function 400	565.9	—	—	—	—
Function 920	39.7	—	—	—	—
Total	5,000.7	—	—	—	—
Estimated Outlays:					
Function 250	3,318.2	887.6	177.7	11.8	2.2
Function 400	320.2	182.5	40.5	16.6	6.2
Function 920	37.2	—	—	—	—
Total	3,675.6	1,070.1	218.2	28.4	8.4

Including outlays from prior years' authority enacted to date, total fiscal year 1980 outlays for NASA activities will be $4,790 million, assuming the funding level authorized in this bill.

6. Basis of Estimate: For the purpose of this estimate, it is assumed that this bill will be enacted and the entire amount authorized will be appropriated prior to fiscal year 1980. The estimated funding required for the pay comparability increase is based on a 5.5 percent increase, effective October 1, 1979. This increase falls within budget function 920 in fiscal year 1980. The estimated annual outlays for fiscal year 1980 funds are based on the historical spendout patterns of the major NASA programs.

The amendments to the National Aeronautics and Space Act are not expected to result in additional costs to the government. The increase in the claims ceiling is to comply with government-wide policy. Based on agency experience, few if any claims are expected by NASA, although the amendment could result in higher payments should any claims occur. The provision of liability insurance to private space vehicle users is not expected to result in costs to the agency, because agency plans call for costs to be covered by user fees.

7. Estimate Comparison: None.

8. Previous CBO Estimate: CBO transmitted a cost estimate on April 12, 1979, for H.R. 1786, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, April 10, 1979. The new Senate version authorizes $183 million more for fiscal year 1980 than the earlier version, resulting in additional 1980 outlays of $150.7 million. However, this version of the Senate bill does not include an authorization for a 1979 supplemental, which was reported in a separate bill (H.R. 1787).

CBO transmitted a cost estimate on March 16, 1979 for H.R. 1786, as ordered reported by the House Committee on Science and Technology on March 14, 1979. The new Senate version of H.R. 1786 authorizes $199 million more in appropriations than the House version for fiscal year 1980, resulting in additional outlays of $161 million in fiscal year 1980. In addition, this estimate reflects a revised assumption regarding projected federal pay raises, 5.5 percent rather than 10.5 percent reflected in the estimate for the House bill.

9. Estimate Prepared by: Mark Berkman.
10. Estimate Approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

LEGISLATIVE CHANGES

The Committee considered several legislative amendments in its action on this NASA authorization bill.

The Committee inserted two new line items, 1(b)(6) and 1(b)(14), in section 1(b) and renumbered the existing line items to conform with these changes. This action establishes as individual line items major facility repair projects proposed for accomplishment within other heterogeneous modification projects included in the bill. Funding levels for the modification projects were reduced accordingly so there is no change in total funding for the construction of facilities program. The Committee recommendation is consistent with its view as to the importance of the facility repair function and the identification of repair as a formal activity in the facilities program. The House adopted the same line items in its action on the fiscal year 1980 authorization request.

The Committee amended section 6 of the bill, by the addition of a subsection (c), to establish an effective date of October 1, 1979 for the two amendments to the National Aeronautics and Space Act of 1958, as amended, provided for in this section. This change is to conform with the requirements of the Congressional Budget and Impoundment Control Act of 1974. An identical provision was added to the House bill by floor amendment.

The Committee deleted section 7 of S. 357 which would have authorized to NASA total amounts for each appropriations category for fiscal year 1981. Since separate legislative action will be undertaken on the fiscal year 1981 authorization request, no action is necessary at this time. The House also deleted this provision during its consideration of the fiscal year 1980 authorization bill.

REGULATORY IMPACT STATEMENT

This bill authorizes the appropriation of funds for the conduct of pace and aeronautical research and development activities to carry ut the policy and purpose of the National Aeronautics and Space ct of 1958. These activities are conducted in NASA laboratories by ASA personnel and through contracts with industry, universities d research institutions for research and development and for suprting scientific and technical services. The Committee has concluded e nature of these activities is such that there is no regulatory impact individuals and businesses and, therefore, it is impractical to lude in this report a regulatory impact evaluation as set forth in agraph 5(a), rule XXIX of the Standing Rules of the Senate.

AGENCY COMMENTS

The following documents constitute the departmental data received by the Committee with reference to the provisions of this bill:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., January 30, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Submitted herewith is a draft of a bill, "To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," together with the sectional analysis thereof. It is submitted to the President of the Senate pursuant to rule VII of the Standing Rules of the Senate.

Section 4 of the Act of June 15, 1959, 73 Stat. 75 (42 U.S.C. 2460), provides that no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation. It is a purpose of the enclosed bill to provide such requisite authorization in the amounts and for the purposes recommended by the President in the Budget of the U.S. Government for fiscal year 1980. For that fiscal year, the bill would authorize appropriations totaling $4,725,000,000 to be made to the National Aeronautics and Space Administration as follows:

(1) for "Research and development" amounts totaling $3,602,500,000;

(2) for "Construction of facilities" amounts totaling $157,600,000; and

(3) for "Research and program management," $964,900,000.

In addition, the bill would authorize such sums as may be necessary for fiscal year 1981; that is, to be available October 1, 1980.

The enclosed draft bill follows generally the format of the National Aeronautics and Space Administration Authorization Act 1979 (Public Law 95-401). However, the bill differs in substance from the prior act in several respects.

First, subsections 1(a), 1(b), and 1(c), which would provide the authorization to appropriate for the three NASA appropriations, differ in the dollar amounts and/or the line items for which authorization to appropriate is requested.

Second, in addition to the specific "Construction of facilities" projects enumerated in subsection 1(b), a line item entitled "Repair of facilities at various locations, not in excess of $500,000 per project" has been added.

Third, subsection 1(g) has been reworded to permit use of funds appropriated for "Research and development" and "Research and program management" for repairs, subject to the same limitations placed on construction of new facilities, additions to existing facilities, and rehabilitation or modification of facilities. The dollar limitation for each project has been raised to $75,000.

Fourth, two amendments to the National Aeronautics and Space Act of 1958 have been included. The first amendment increases to

$25,000 the amount for which the Administration may settle or adjust claims resulting from the conduct of the Administration's functions. The second amendment would add a new section 308, entitled "Insurance and Indemnification," and renumber the existing section 308 as section 309.

Fifth, section 6 of Public Law 95–401, which corrected the mislettering of subsections of section 203 of the National Aeronautics and Space Act of 1958, as amended, has been omitted.

Sixth, section 7 of Public Law 95–401, which added a new subsection (f) to section 102 of the National Aeronautics and Space Act of 1958, as amended, has been omitted since the amendment is now permanent law.

Seventh, section 8 of Public Law 95–401, requiring a report by December 31, 1978, on the Administration policy regarding conflicts of interest, standards of conduct, and financial disclosure and the implementation of that policy, has been omitted.

Eighth, in addition to providing authorization of appropriations in the amounts recommended by the President in his budget for fiscal year 1980, the bill also would provide authorization for such sums as may be necessary for fiscal year 1981. It is specified that all of the limitations and other provisions of the bill applicable to amounts appropriated pursuant to section 1 shall apply in the same manner to amounts appropriated pursuant to section 7.

Finally, the last section of the draft bill, section 8, has been changed to provide that the bill, upon enactment, may be cited as the "National Aeronautics and Space Administration Authorization Act, 1980," rather than "1979."

Where required by section 102(2)(C) of the National Environ-
mental Policy Act of 1969, as amended (42 U.S.C. 4332(2)(C)), and
he implementing regulations of the Council on Environmental Qual-
ty, environmental impact statements covering NASA installations and
ne programs to be funded pursuant to this bill have been or will be
rnished to the Committee on Commerce, Science, and Transporta-
on as appropriate.

The National Aeronautics and Space Administration recommends
t the enclosed draft bill be enacted. The Office of Management and
dget has advised that such enactment would be in accord with the
gram of the President.

Very truly yours,

nclosure. ROBERT A. FROSCH, *Administrator.*

LL To authorize appropriations to the National Aeronautics and Space
ninistration for research and development, construction of facilities, and
arch and program management, and for other purposes

it enacted by the Senate and House of Representatives of the
d States of America in Congress assembled, That there is hereby
rized to be appropriated to the National Aeronautics and Space
istration to become available October 1, 1979:

(a) For "Research and development," for the following
ograms:

(1) Space Shuttle, $1,366,000,000;
(2) Space flight operations, $467,300,000;

(3) Expendable launch vehicles, $70,700,000;

(4) Physics and astronomy, $337,500,000;

(5) Planetary exploration, $220,200,000;

(6) Life sciences, $43,900,000;

(7) Space applications, $332,300,000;

(8) Technology utilization, $12,100,000;

(9) Aeronautical research and technology, $300,300,000;

(10) Space research and technology, $116,400,000;

(11) Energy technology, $3,000,000;

(12) Tracking and data acquisition, $332,800,000.

(b) For "Construction of facilities," including land acquisitio as follows:

(1) Modification of static test facility, Ames Research Ce ter, $2,900,000;

(2) Construction of large aircraft maintenance dock, Hug L. Dryden Flight Research Center, $1,500,000;

(3) Rehabilitation and modification of flight operation facilities, Ellington Air Force Base, $1,760,000;

(4) Modifications to central instrumentation facility, Joh F. Kennedy Space Center, $1,260,000;

(5) Modifications to operations and checkout building John F. Kennedy Space Center, $950,000;

(6) Modifications of model support system 8-foot hig temperature structures tunnel, Langley Research Center $1,410,000;

(7) Modifications to 8-foot transonic pressure tunnel Langley Research Center, $2,000,000;

(8) Modification of transonic dynamics tunnel, Langley Research Center, $970,000;

(9) Rehabilitations and modification of gas dynamics laboratory, Langley Research Center, $3,600,000;

(10) Modifications to central air system, various buildings, Lewis Research Center, $5,720,000;

(11) Modifications to various buildings, Marshall Space Flight Center, $2,640,000;

(12) Rehabilitation of roofs, various buildings, Marshall Space Flight Center, $900,000;

(13) Construction of facilities operations shop building, Wallops Flight Center, $1,100,000;

(14) Large aeronautical facility: construction of national transonic facility, Langley Research Center, $12,000,000;

(15) Large aeronautical facility: modification of 40- by 80-foot subsonic wind tunnel, Ames Research Center, $33,900,000;

(16) Space Shuttle facilities at various locations as follows:

(A) Modifications to launch complex 39, John F. Kennedy Space Center, $17,700.00;

(B) Modifications to crawler transporter maintenance facility, John F. Kennedy Space Center, $1,250,000;

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $10,000,000;

(D) Minor Shuttle-unique projects, various locations, $2,500,000;

(17) Space Shuttle payload facilities at various locations as follows:

(A) Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $2,610,000;

(B) Modification and addition to materials sciences laboratory, Ames Research Center, $1,640,000;

(18) Repair of facilities at various locations, not in excess of $500,000 per project, $12,000,000;

(19) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $19,790,000;

(20) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $3,500,000;

(21) Facility planning and design not otherwise provided for, $14,000,000.

(c) For "Research and program management," $964,900,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or contruction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repairs, rehabilitation, or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (20), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 per centum, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (21) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and

Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of dis-ributing its research and development funds whenever feasible.

SEC. 6.(a) Paragraph 13 of subsection (c) of section 203 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 473(c)(13)), is amended by striking out "$5,000" where it appears nd inserting in lieu thereof "$25,000".

(b) The National Aeronautics and Space Act of 1958, as amended, amended (1) by redesignating section 308 as section 309 thereof; d (2) by inserting the following new section:

"INSURANCE AND INDEMNIFICATION

"SEC. 308. (a) The Administration is authorized on such terms and he extent it may deem appropriate to provide liability insurance any user of a space vehicle to compensate all or a portion of claims hird parties for death, bodily injury, or loss of or damage to prop- resulting from activities carried on in connection with the launch, ations or recovery of the space vehicle. Appropriations available e Administration may be used to acquire such insurance, but such appropriations shall be reimbursed to the maximum extent practicable by the users under reimbursement policies established pursuant to section 203(c) of this Act.

"(b) Under such regulations in conformity with this section as the Administrator shall prescribe taking into account the availability, cost and terms of liability insurance, any agreement between the Administration and a user of a space vehicle may provide that the United States will indemnify the user against claims (including reasonable expenses of litigation or settlement) by third parties for death, bodily injury, or loss of or damage to property resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle, but only to the extent that such claims are not compensated by liability insurance of the user: *Provided*, That such indemnification may be limited to claims resulting from other than the actual negligence or willful misconduct of the user.

"(c) An agreement made under subsection (b) that provides indemnification must also provide for—

"(1) notice to the United States of any claim or suit against the user for the death, bodily injury, or loss of or damage to the property; and

"(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

"(d) No payment may be made under subsection (b) unless the Administrator or his designee certifies that the amount is just and reasonable.

"(e) Upon the approval by the Administrator, payments under subsection (b) may be made, at the Administrator's election, either from funds available for research and development not otherwise obligated or from funds appropriated for such payments.

"(f) As used in this section—

"(1) the term 'space vehicle' means an object intended for launch, launched or assembled in outer space, including the Space Shuttle and other components of a space transportation system, together with related equipment, devices, components and parts;

"(2) the term 'user' includes anyone who enters into an agreement with the Administration for use of all or a portion of a space vehicle, who owns or provides property to be flown on a space vehicle, or who employs a person to be flown on a space vehicle; and

"(3) the term 'third party' means any person who may institute a claim against a user for death, bodily injury or loss of or damage to property.".

Sec. 7. In addition to the amounts authorized to be appropriated under section 1 of this Act, there is hereby authorized to be appropriated to the National Aeronautics and Space Administration, to be available no earlier than October 1, 1980, such sums as may be necessary:

(a) For "Research and development,"

(b) For "Construction of facilities,"

(c) For "Research and program management."

All of the limitations and other provisions of this Act which are applicable to amounts appropriated pursuant to subsections (a), (b), and (c) of section 1 of this Act shall apply in the same manner to amounts appropriated pursuant to subsections (a), (b), and (c), respectively, of this section.

Sec. 8. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1980".

National Aeronautics and Space Administration,
Office of the Administrator,
Washington, D.C., May 15, 1979.

Hon. Walter F. Mondale,
*President of the Senate,
Washington, D.C.*

Dear Mr. President: On January 30, 1979, I transmitted to you a draft of a bill, "To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes." That bill, which was introduced in the House of Representatives as H.R. 1786 and in the Senate as S. 357, has as its purpose to authorize appropriations to the National Aeronautics and Space Administration (NASA) in the amounts and for the purposes recommended by the President in the Budget of the United States Government for fiscal year 1980.

On March 28, 1979, H.R. 1786 was passed by the House of Representatives and it is now pending in the Committee on Commerce, Science, and Transportation.

On May 14, 1979, the President transmitted to the Congress an Amendment to the fiscal year 1980 Budget to increase by $220 million the amount recommended for the Space Shuttle. These additional resources are needed to maintain the development and production pace necessary to meet civil and military requirements.

To provide the necessary authorization for the $220 million increase in appropriations recommended by the President, the NASA recommends that section 1(a)(1) of H.R. 1786 be amended to read:

"(1) Space Shuttle, $1,586,000,000;"

The Office of Management and Budget has advised that such an amendment would be in accord with the program of the President.

Very truly yours,

Robert A. Frosch,
Administrator.

SECTION-BY-SECTION ANALYSIS

ection 1

Subsections (a), (b), and (c) authorize to be appropriated to the ational Aeronautics and Space Administration funds, in the total nount of $4,961 million as follows: (a) For "Research and development," a total of 12 program line items aggregating the sum of $3,838,-0,000; (b) for "Construction of facilities" a total of 23 line items ag-gating the sum of $157,600,000; and (c) for "Research and program nagement", $964,900,000. Subsection (c) would also authorize to be ropriated such additional or supplemental amounts as may be nec-ry for increases in salary, pay, retirement, or other employee bene-uthorized by law.

bsection 1(d) authorizes the use of appropriations for "Research development" without regard to the provisions of subsection 1(g) for: (1) Items of a capital nature (other than the acquisition of land required at locations other than NASA installations for the performance of research and development contracts; and (2) grants to nonprofit institutions of higher education, or to nonprofit organization whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities. Title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Moreover, each such grant shall be made under such conditions as the Administrator shall find necessary to insure that the United States will receive benefit therefrom adequate to justify the making of that grant.

In either case no funds may be used for the construction of a facility in accordance with this subsection, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator notifies the Speaker of the House, the President of the Senate and the specified committees of the Congress of the nature, location, and estimated cost of such facility.

Subsection 1(e) provides that, when so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) contracts for maintenance and operation of facilities, and support services, may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

Subsection 1(f) authorizes the use of not to exceed $25,000 of the "Research and program management" appropriation for scientific consultations or extraordinary expenses, including representation and official entertainment expenses, upon the authority of the Administrator, whose determination shall be final and conclusive.

Subsection 1(g) provides that of the funds appropriated for "Research and development" and "Research and program management," not in excess of $75,000 per project (including collateral equipment) may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities; however, of the funds appropriated for "Research and development," not in excess of $250,000 per project, including collateral equipment, may be used for any of the foregoing to meet unforeseen programmatic needs.

Section 2

Section 2 authorizes upward variations of the sums authorized for the "Construction of facilities" line items (other than facility planning and design) of 10 percent at the discretion of the Administrator or his designee, or 25 percent following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such action, for the purpose of meeting unusual cost variations. However, the total cost of all work authorized under these line items may not exceed the total sum authorized for "Construction of facilities" under subsection 1(b), paragraphs (1) through (22).

Section 3

Section 3 provides that not more than one-half of 1 percent of the funds appropriated for "Research and development" may be transferred to the "Construction of facilities" appropriation and, when so transferred, together with $10 million of the funds appropriated for "Construction of facilities" (other than funds appropriated for facility planning and design), shall be available for the construction of facilities and land acquisition at any location if the Administrator determines (1) that such action is necessary because of changes in the aeronautical and space program or new scientific or engineering developments, and (2) that deferral of such action until the next authorization act is enacted would be inconsistent with the interest of the Nation in aeronautical and space activities. However, no such funds may be obligated until 30 days have passed after the Administrator or his designee has transmitted to the Speaker of the House, the President of the Senate, and the specified committees of Congress a written report containing a description of the project, its cost, and the reason why such project is necessary in the national interest, or each such committee before the expiration of such 30-day period has notified the Administrator that no objection to the proposed action will be made.

Section 4

Section 4 provides that, notwithstanding any other provision of this act—

(1) No amount appropriated pursuant to this act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) No amount appropriated pursuant to this act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c); and,

(3) No amount appropriated pursuant to this act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the
Speaker of the House, the President of the Senate, and each such
committee of notice given by the Administrator or his designee con-
aining a full and complete statement of the action proposed to be
aken and the facts and circumstances relied upon in support of such
roposed action, or (B) each such committee before the expiration of
uch period has transmitted to the Administrator written notice to the
fect that such committee has no objection to the proposed action.

ction 5

Section 5 expresses the sense of the Congress that it is in the national
erest that consideration be given to geographical distribution of
leral research funds whenever feasible and that the National Aero-
tics and Space Administration should explore ways and means of
ributing its research and development funds whenever feasible.

tion 6

ction 6 makes two amendments to the National Aeronautics and
e Act of 1958. Subsection (a) amends section 203(c)(13) (A)

and (B) to increase to $25,000 the amount for which the Administration may settle or adjust claims on behalf of the United States for actions resulting from the conduct of the Administration's functions. The increase raises the adjustment to the same level established for the Federal Tort Claims Act (Public Law 89–506), which was set at $2,500 prior to 1966.

Subsection (b) of section 6 adds a new section 308 to the National Aeronautics and Space Act of 1958, as amended, and renumbers existing section 308 as section 309.

The new section 308 includes six subsections, (a) through (f).

Subsection (a) authorizes the Administrator to provide liability insurance to any user of a space vehicle to compensate them for claims by third parties for damage resulting from described activities. The Administration is authorized to provide such insurance in its sole discretion on such terms and to the extent it may deem appropriate. Thus, for example, the Administration could require certain Shuttle users to obtain through NASA and pay for an equitable share of third-party liability insurance. On the other hand, the Administration could, in its discretion, exempt other Shuttle users, for example, small self-contained payloads, from the requirement of obtaining insurance or paying for it.

This subsection authorizes the Administrator, for example, to procure insurance for a number of Shuttle flights in the future based on a projected schedule. In doing so, he is authorized to use for the purchase of such insurance appropriated funds available to the Administration. In turn, he is required to seek reimbursement of the appropriation used, to the maximum extent practicable, from the users under general Shuttle reimbursement policies established pursuant to section 203(c) of the National Aeronautics and Space Act of 1958, as amended. This could be accomplished by charging users a fixed price for the insurance based upon an estimate of the cost of insurance, the number of Shuttle flights and users to be protected by the insurance policy, and other relevant factors. Any other reasonable method of charging users for such insurance may be adopted, depending on NASA's experience and the insurance coverage available. It is not anticipated that NASA would use its appropriated funds to protect the U.S. Government (including NASA when flying its payloads) from liability; however, the subsection is broad enough to permit that if the Administrator determines that to do so would be desirable and appropriate in any particular case, for example, depending on the mix of payloads to be flown on a given Shuttle flight.

Subsection (b) authorizes NASA, in its discretion, to provide in any agreement entered into by it and a user of a space vehicle (as defined in subsection 308(f)), for the indemnification of the user against claims by third parties (as defined in subsection 308(f)) for damage resulting from activities carried on in connection with the launch, operations, or recovery of the space vehicle, but only to the extent that such claims are not compensated by liability insurance of the user. It requires the Administrator to issue implementing regulations which take into account the availability, cost, and terms of liability insurance.

The agreement to indemnify may be inserted in several different types of agreements with users of a space vehicle, including but not limited to, agreements under which NASA provides Shuttle launch services and other Government services and agreements under which non-U.S. Government persons provide to NASA payload specialist services on board Shuttle flights.

It is specifically provided that the indemnification may, if the Administration deems it appropriate, be limited to claims other than those resulting either from the actual negligence of the user or from willful misconduct of the user, or both. Under this authority, the Administration will be able to tailor the extent of the indemnification to the particular circumstances of a given flight, indemnifying the user totally or, for example, indemnifying the user only with respect to damage or injury which did not result from the user's willful misconduct.

Indemnification is only applicable to claims of third parties who are defined in subsection 308(a)(f)(3) as "any person who may institute a claim against a user for death, bodily injury or loss of or damage to property." It is envisaged that a third party would not normally include persons who contract with NASA for launch services, since NASA expects to include in its launch agreements a provision under which the person procuring launch services agrees that he will not make a claim (and that he will hold NASA and other users harmless) for damage to his property or employees caused by NASA, other users or any other person involved in space transportation system operations during such operations. In turn, NASA and other users would promise not to bring a claim against the user for damage to their property or employees. The result would be that each person flying on a space vehicle would be required either to insure or self-insure his own property.

The indemnification authority is applicable to damage resulting from activities carried on in connection with the launch, operations, or recovery of a space vehicle. The term "space vehicle" is defined in subsection 308(f)(1) to include spacecraft and other payloads that may be launched, with the term specifically including the Space Shuttle. The Administrator's implementing regulations would define technically and in detail the activities carried on that would be protected by indemnification and the extent and duration of such protection.

Subsection (c) provides that certain described conditions must be contained in any agreement providing for indemnification under section 308. Specifically, it requires that (1) notice be given to the United States of any claim or suit against a user for damage; and (2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

Subsection (d) provides that no indemnification payment made under subsection (b) may be made unless the Administrator or his designee certifies that the amount is just and reasonable.

Subsection (e) provides that upon the Administrator's approval, ndemnification payments under subsection (b) may be made either rom any funds available for NASA's research and development ctivities not otherwise obligated or from funds appropriated speci- ally for such indemnification payments. A decision on whether to e existing appropriations or seek additional appropriations from ongress specifically to pay meritorious claims rests with the Admin- trator. It is the intent of this subsection that no authorized NASA ogram should be curtailed or terminated because of such indemni- ation payments.

Subsection (f) provides a definition of three terms used in section 308.

The term "space vehicle" is defined in subsection (f)(1) as any object intended for launch, launched or assembled in outer space, specifically including the Space Shuttle and other components of a space transportation system, together with related equipment, devices, components and parts. This is intended to include, but not be limited to, Spacelab, upper stages, and any payload to be flown on board a Shuttle for a user.

The term "user," as defined in subsection (f)(2), includes anyone who enters into an agreement with the Administration for use of all or a portion of a space vehicle, who owns or provides property to be flown, on a space vehicle, or who employs a person to be flown on a space vehicle. It could include as one "who owns or provides property to be flown on a space vehicle", a person who intends and has made appropriate arrangements to retain ownership of property at any time during flight; e.g., a manufacturer of an upper stage who may retain title to the upper stage during space flight. The definition also includes as one "who employs a person to be flown on a space vehicle" an entity such as a university which would provide under a contract with NASA its employee's services as a payload specialist for a particular Shuttle flight.

The term "third party," as defined in subsection (f)(3), means any person who may bring a claim against a user for damage sounding in tort. An explained previously in connection with subsection (b), a "third party" would not normally include users who contract with NASA for launch services; however, there may be circumstances under which such a person could be a "third party" for the purposes of section 308.

Subsection (c) of section 6 establishes October 1, 1979 as the effective date of section 6.

Section 7

Section 7 provides that the act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1980."

SPACE BUDGETS OF OTHER AGENCIES

The following table, the source for which is the Office of Management and Budget, shows new budget authority of all Government agencies:

SPACE ACTIVITIES OF THE GOVERNMENT—HISTORICAL SUMMARY AND FISCAL YEAR 1980 BUDGET RECOMMENDATIONS [1]

[In millions of dollars]

	NASA		Department						
	Total	Space [2]	Defense	Energy	Commerce	Interior	Agriculture	NSF	Total space [5]
1955	56.9	56.9	3.0						59.6
1956	72.7	72.7	30.3	7.0				7.3	117.3
1957	78.2	78.2	71.0	21.3				8.4	178.5
1958	117.3	117.3	205.6	21.3				3.3	347.9
1959	330.9	260.9	489.5	34.3					784.7
1960	523.6	461.5	560.9	43.3				.1	1,065.8
1961	964.0	926.0	813.9	67.7				.6	1,808.2
1962	1,824.9	1,796.8	1,298.2	147.8	50.7			1.3	3,294.6
1963	3,673.0	3,626.0	1,549.9	213.9	43.2			1.5	5,434.5
1964	5,099.7	5,016.3	1,599.3	210.0	2.8			3.0	6,831.4
1965	5,249.7	5,137.6	1,573.9	228.6	12.2			3.2	6,955.5
1966	5,174.9	5,064.5	1,688.8	186.8	26.5			3.2	6,969.8
1967	4,965.6	4,830.2	1,663.6	183.6	29.3			2.8	6,741.5
1968	4,587.3	4,430.0	1,921.8	145.1	28.1	0.2	0.5	3.2	6,551.4
1969	3,990.9	3,822.0	2,013.0	118.0	20.0	.2	.7	1.9	5,975.8
1970	3,745.8	3,547.0	1,678.4	102.8	8.0	1.1	.8	2.4	5,340.5
1971	3,311.2	3,101.3	1,512.3	94.8	27.4	1.9	.8	2.4	4,740.9
1972	3,306.6	3,071.0	1,407.0	55.2	31.3	5.8	1.6	2.8	4,574.7
1973	3,406.2	3,093.2	1,623.0	54.2	39.7	10.3	1.9	2.6	4,824.8
1974	[3] 3,036.9	2,758.5	1,766.0	41.7	60.2	9.0	3.1	1.8	4,640.3
1975	[3] 3,229.1	2,915.3	1,892.4	29.6	64.4	8.3	2.3	2.0	4,914.3
1976	[3] 3,550.3	3,225.4	1,983.3	23.3	71.5	10.4	3.6	2.4	5,319.9
TQ [4]	931.8	849.2	460.4	4.6	22.2	2.6	.9	.6	1,340.5
1977	[3] 3,817.8	3,440.2	2,411.9	21.7	90.8	9.5	6.3	2.4	5,982.8
1978	[3] 4,060.1	3,622.9	2,728.8	34.4	102.8	9.7	7.7	2.4	6,508.7
Budget:									
1979 est.	[3] 4,561.9	4,032.5	3,250.4	38.2	104.0	9.9	8.2	2.4	7,445.6
1980 est.	[3] 4,943.0	4,386.1	4,023.4	34.1	99.7	11.6	13.1	2.4	8,570.4

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[1] Historical amounts are estimates based on best data available.

[2] Excludes amounts for aircraft technology in 1959 and succeeding years. Amounts for NASA–NACA aircraft and space activities not separately identifiable prior to 1959.

[3] Adjusted for net offsetting receipts.

[4] Transitional quarter.

[5] May not add due to rounding.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate changes in existing law made by the bill are shown s follows (existing law proposed to be omitted is enclosed in black rackets, new matter is printed in italic, existing law in which no hange is proposed is shown in roman):

NATIONAL AERONAUTICS AND SPACE ACT OF 1958

Public Law 85–568 (72 Stat. 426)

* * * * * * *

TITLE II—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

* * * * * * *

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) * * *

* * * * * * *

(c) In the performance of its functions the Administration is authorized—

* * * * * * *

(13) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for [$5,000] *$25,000* or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of [$5,000] *$25,000* is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration; and

* * * * * * *

TITLE III—MISCELLANEOUS

* * * * * * *

APPROPRIATIONS

SEC. [308] *309.* * * *

* * * * * * *

INSURANCE AND INDEMNIFICATION

Sec. 308. (a) The Administration is authorized on such terms and to to the extent it may deem appropriate to provide liability insurance for any user of a space vehicle to compensate all or a portion of claims by third parties for death, bodily injury, or loss of or damage to property resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle. Appropriations available to the Administration may be used to acquire such insurance, but such appropriations shall be reimbursed to the maximum extent practicable by the users under reimbursement policies established pursuant to section 203(c) of this Act.

(b) Under such regulations in conformity with this section as the Administrator shall prescribe taking into account the availability, cost and terms of liability insurance, any agreement between the Administration and a user of a space vehicle may provide that the United States will indemnify the user against claims (including reasonable expenses of litigation or settlement) by third parties for death, bodily injury, or loss of or damage to property resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle, but only to the extent that such claims are not compensated by liability insurance of the user: Provided, That such indemnification may be limited to claims resulting from other than the actual negligence or willful misconduct of the user.

(c) An agreement made under subsection (b) that provides indemnification must also provide for—

(1) notice to the United States of any claim or suit against the user for the death, bodily injury, or loss of or damage to the property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(d) No payment may be made under subsection (b) unless the Administrator or his designee certifies that the amount is just and easonable.

(e) Upon the approval by the Administrator, payments under sub- ection (b) may be made, at the Administrator's election, either from unds available for research and development not otherwise obligated from funds appropriated for such payments.

(f) As used in this section—

(1) the term "space vehicle" means an object intended for launch, launched or assembled in outer space, including the Space Shuttle and other components of a space transportation system, together with related equipment, devices, components and parts;

(2) the term "user" includes anyone who enters into an agreement with the Administration for use of all or a portion of a space vehicle, who owns or provides property to be flown on a space vehicle, or who employs a person to be flown on a space vehicle; and

(3) the term "third party" means any person who may institute claim against a user for death, bodily injury or loss of or damage o property.

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Calendar No. 225

96TH CONGRESS
1st Session
SENATE
REPORT
No. 96–208

STUDY OF THE SCHOOL NUTRITION PROGRAMS

JUNE 12 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. MCGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. Res. 90]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the resolution (S. Res. 90) requesting the Secretary of Agriculture to make a study of the programs administered under the National School Lunch Act and the Child Nutrition Act of 1966, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the resolution as amended do pass.

SHORT EXPLANATION

Senate Resolution 90 requests the Secretary of Agriculture to make a study of the school nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966. The study would include such aspects of the school lunch and breakfast programs as (1) program costs; (2) the income of families participating in the programs; (3) the use of the programs for nutrition education purposes; (4) the contribution of the programs to the agricultural economy; (5) income verification procedures; and (6) the need for egislative changes.

The Secretary is requested to report on the progress of the study y January 31, 1980, and submit a final report by March 31, 1981.

COMMITTEE AMENDMENTS

The committee amendments are technical and conforming in nature and add income verification procedures as one of the enumerated aspects of the school nutrition programs to be included in the Secretary's study.

The amendment to the title of the bill is technical in nature.

BACKGROUND AND NEED

I.

The National school lunch program is the oldest and largest of the school nutrition programs. It was first authorized in 1946 and provides Federal assistance to help States and schools serve nutritious lunches to children at school.

Children participating in this program may receive their school lunch at full price, reduced price, or free, depending on their family's income. The criteria for free lunches cannot be less than the income poverty guidelines nor may they exceed 125 percent of the income poverty guidelines. Children are eligible for reduced-price lunches if their family's income does not exceed 195 percent of the income poverty guidelines. The number of children who participate in the lunch program on an average day is 26 million, with 11.4 million being served their lunches free or at a reduced price.

Initially authorized as a 2-year pilot program under the Child Nutrition Act of 1966, the school breakfast program was made permanent in October 1975. This program provides Federal assistance to help States and schools serve nutritious breakfasts to children at school. The eligibility criteria for paid, reduced-price, and free breakfasts are the same criteria that are used in the school lunch program.

Public Law 95–166 amended section 4 of the Child Nutrition Act to increase the maximum amount available for Federal assistance in especially needy schools for free and reduced-price breakfasts. The act establishes the maximum rate for free breakfasts in such schools at the higher of 10 cents above the national average payment for free breakfasts or a rate determined by indexing the maximum reimbursement for breakfasts in especially needy schools to the change in the series of food away from home of the Consumer Price Index. The maximum payment for reduced-price breakfasts in especially needy schools is also established at 5 cents less than the maximum payment for free breakfasts.

Public Law 95–627 defines especially needy schools as schools where 40 percent or more of the lunches were served free or at reduced price. During fiscal year 1978, the program continued to expand with 24,560 schools participating, a 12-percent increase over fiscal year 1977. The number of participating children increased to 3 million in the peak month. A total of 472 million breakfasts were served, an increase of 11 percent over fiscal year 1977. Over 85 percent of the breakfasts are served free or at a reduced price to needy children.

II.

NATIONAL AVERAGE PER MEAL PAYMENT STANDARDS FOR LUNCH AND BREAKFAST PROGRAMS FOR PERIOD JANUARY 1979 TO JUNE 1979; NATIONAL AVERAGE ASSISTANCE LEVEL FOR COMMODITIES AND SPECIAL MILK FOR PERIOD JANUARY 1979 TO JUNE 1979

	School programs										
	School lunch			School breakfast			School breakfast needy areas			Special milk	
	Paying	Reduced price	Free	Paying	Reduced price	Free	Paying	Reduced price	Free	Paying	Free
Cash-for-food assistance	15.75	15.75	15.75	12.75	12.75	12.75	12.75	12.75	12.75	6.75	Full cost of half pint.
Special cash assistance		51.50	71.50		23.75	31.75		36.75	41.75		
Per lunch cash reimbursement	15.75	67.25	87.25	12.75	36.50	44.50	12.75	49.50	54.50		
Commodities	13.75	13.75	13.75	[1] 3.00	[1] 3.00	[1] 3.00	[1] 3.00	[1] 3.00	[1] 3.00		
Total cash and commodities	29.50	81.00	101.00	15.75	39.50	47.50	15.75	57.70	57.50	6.75	

[1] No minimum commodity assistance level is required for breakfast programs. USDA indicates, however, that a traditional level of assistance has usually been 3 cents per breakfast.

Source: The Congressional Budget Office.

III.

The school lunch and breakfast programs have grown steadily since heir creation. The President's budget for fiscal year 1980 proposed ignificant modifications in these programs. In an effort to evaluate the dministration's proposed modifications in these programs, the Subommittee on Nutrition requested the General Accounting Office to udy and evaluate these proposals and held 2 days of hearings on he 1980 budget, February 27 and 28, 1979.

IV.

On February 27, 1979, representatives of the General Accounting fice appeared before the Subcommittee on Nutrition and stated that he Department had little convicing evidence to support their proed modifications in the school lunch program." They pointed to lack of program information and evaluation material as a serious pediment to the consideration and evaluation of program changes. several of its reports, the General Accounting Office has called for evaluation of all feeding programs in general and for the school h program in particular.

V.

the most recent USDA outlook conference, James E. Austin, iate professor in general management, Harvard Business School is a Department consultant and expert in program evaluation) ned up the Department's existing work in evaluating feeding ams as follows:

> Although the breadth and magnitude of the agency's utrition programs have expanded tremendously, evaulation

of these efforts has not. Evaluation has seriously lagged behind program growth. The absence of systematic and thorough program evulation leaves policymaking on tenuous grounds: We do not know how well we are doing nor whether we could be doing it in better ways.

VI.

Assistant Secretary of Agriculture Carol Tucker Foreman stated at the February 27, 1979, Subcommittee on Nutrition hearing that

> I do not think we would object at all to direction from the Congress to conduct a comprehensive evaulation of the child nutrition programs. I think it would be very worthwhile.

VII.

The authorizing legislation for the school lunch and breakfast programs has been repeatedly amended over the past 10 years. The administration of the programs has undergone substantial changes as a result of these amendments.

The school lunch and breakfast programs make significant contributions to participating children. The continued growth of and the numerous amendments to these programs has not been conducive to a comprehensive evaluation of the programs' performance.

In order to consider proposed modifications or to assess program performance, data are needed. Those data are not currently available. It is not now possible to evaluate the potential consequences of any proposed program modifications.

The areas that would be studied under Senate Resolution 90 will provide the basis for informed evaluation of the various complex aspects of the school nutrition programs. Congress will have the facts in hand upon which decisions can be made that would affect these programs.

COMMITTEE CONSIDERATION

Senate Resolution 90 was introduced by Senators McGovern and Dole on March 5, 1979, after support for such a study resolution was expressed by representatives of the General Accounting Office and Assistant Secretary of Agriculture Carol Tucker Foreman at a February 27, 1979, hearing of the Subcommittee on Nutrition.

On May 23, 1979, the Committee on Agriculture, Nutrition, and Forestry considered Senate Resolution 90 and voted to report the resolution to the Senate. The committee accepted amendments to the resolution and an amendment to the title that was offered by Senator Helms. The committee agreed with Senator Helms that the provisions of the resolution requesting the Secretary to study the composition and incomes of families participating in the programs should be read broadly to include families that are determined to be ineligible for free or reduced-price meals.

APPENDIX

The following appendix contains (1) a table showing the participation growth in the school lunch and breakfast programs for the fiscal years 1969 through 1978, (2) a table showing the number of lunches served in the school lunch program during fiscal year 1978, and (3) a table showing the number of breakfasts served in the school breakfast program during fiscal year 1978.

PARTICIPATION GROWTH IN THE SCHOOL LUNCH AND BREAKFAST PROGRAMS, FISCAL YEARS 1969-78

[In thousands]

	1969	1970	1971	1972	1973	1974	1975	1976	Transition quarter	1977	1978 (preliminary)
1. National school lunch program:											
(a) Total (sec. 4)	22, 079	23, 127	24, 640	24, 941	25, 164	25, 019	25, 289	25, 857	25, 104	26, 949	27, 086
(b) Free (sec. 11)	[1] 3, 334	[1] 4, 787	5, 421	7, 612	8, 586	9, 007	9, 595	10, 341	10, 020	10, 934	10, 505
(c) Reduced price (sec. 11)			899	409	199	300	599	900	993	1, 314	1, 558
2. School breakfast program	330	573	960	1, 142	1, 313	1, 534	1, 993	2, 334	2, 141	2, 605	2, 897

[1] This figure represents a combined total for free and reduced-price meals, separate data are not available.

Source: Library of Congress, Congressional Research Service.

SCHOOL LUNCH PROGRAM—LUNCHES SERVED, FISCAL YEAR 1978

[In thousands]

State	Average per day	Total lunches served			
		Free	Reduced price	Paid	Total
Alabama	574	50, 205	5, 541	42, 961	98, 707
Alaska	28	1, 250	218	3, 139	4, 607
Arizona	311	16, 610	2, 320	26, 300	45, 230
Arkansas	326	23, 520	2, 457	27, 643	53, 620
California	1, 802	165, 213	17, 025	132, 440	314, 678
Colorado	285	12, 561	2, 818	32, 176	47, 555
Connecticut	291	15, 931	3, 193	29, 179	48, 303
Delaware	68	3, 749	556	6, 997	11, 302
District of Columbia	9	8, 750	381	1, 727	10, 858
Florida	970	69, 002	17, 577	87, 482	174, 061
Georgia	838	61, 628	7, 066	79, 354	148, 048
Guam	19	1, 183	199	1, 534	2, 916
Hawaii	150	5, 574	1, 837	18, 311	25, 722
Idaho	105	3, 278	1, 113	13, 566	17, 957
Illinois	1, 044	73, 033	4, 816	94, 731	172, 580
Indiana	670	21, 355	3, 469	87, 861	112, 685
Iowa	429	10, 808	3, 198	60, 587	74, 593
Kansas	298	10, 279	2, 968	37, 999	51, 246
Kentucky	546	31, 994	4, 505	46, 628	83, 127
Louisiana	724	56, 361	5, 064	58, 283	119, 708
Maine	148	8, 698	3, 050	11, 854	23, 602
Maryland	392	24, 065	5, 095	39, 181	68, 341
Massachusetts	686	36, 411	4, 587	77, 601	118, 599
Michigan	786	42, 574	5, 230	79, 885	127, 689
Minnesota	559	16, 549	5, 990	70, 678	93, 217
Mississippi	423	43, 056	3, 888	21, 879	68, 823
Missouri	597	28, 718	4, 253	68, 465	101, 436
Montana	93	4, 103	803	12, 977	17, 883

SCHOOL LUNCH PROGRAM—LUNCHES SERVED, FISCAL YEAR 1978—Continued

[In thousands]

State	Average per day	Total lunches served		
		Free	Reduced price	Paid
Nebraska	157	5, 895	2, 069	25, 234
Nevada	61	2, 904	459	7, 084
New Hampshire	91	3, 942	1, 335	10, 626
New Jersey	598	44, 547	5, 881	52, 206
New Mexico	167	15, 631	1, 918	11, 333
New York	1, 537	149, 419	13, 791	106, 688
North Carolina	891	70, 721	9, 612	77, 694
North Dakota	90	2, 993	910	11, 468
Ohio	1, 126	55, 264	7, 162	127, 245
Oklahoma	353	20, 580	3, 030	35, 735
Oregon	244	10, 129	2, 227	30, 086
Pennsylvania	1, 634	60, 644	12, 677	130, 513
Puerto Rico	459	65, 956	5, 496	7, 195
Rhode Island	91	6, 337	958	5, 342
Samoa, American	8	1, 194		83
South Carolina	473	42, 743	5, 309	33, 597
South Dakota	106	5, 044	1, 223	11, 114
Tennessee	614	40, 828	4, 306	55, 732
Texas	1, 548	116, 299	16, 396	136, 197
Trust territory	21	3, 233	30	14
Utah	214	5, 479	2, 416	29, 071
Vermont	48	3, 177	775	6, 204
Virginia	667	40, 024	5, 755	69, 810
Virgin Islands	28	2, 182	425	281
Washington	344	16, 372	4, 335	38, 809
West Virginia	243	17, 276	2, 823	18, 828
Wisconsin	491	16, 611	4, 841	63, 756
Wyoming	46	1, 124	348	6, 070
Total	25, 521	1, 673, 006	235, 724	2, 379, 433

SCHOOL BREAKFAST PROGRAM—BREAKFASTS SERVED, FISCAL YEAR 1978

[In thousands]

State	Average per day	Total breakfasts served		
		Free	Reduced price	Paid
Alabama	72. 8	10, 758	544	1, 137
Alaska	1. 6	193	7	69
Arizona	33. 9	4, 366	270	1, 339
Arkansas	42. 0	5, 520	291	1, 345
California	360. 9	53, 499	2, 508	7, 497
Colorado	12. 9	1, 858	129	568
Connecticut	5. 8	573	58	582
Delaware	5. 8	745	26	256
District of Columbia	20. 4	3, 474	80	124
Florida	118. 2	17, 284	1, 775	2, 799
Georgia	137. 2	17, 238	1, 031	3, 500
Guam	7. 1	710	91	378
Hawaii	15. 3	1, 870	433	560
Idaho	. 9	191	9	42
Illinois	90. 0	14, 700	164	973
Indiana	26. 3	3, 171	171	1, 590
Iowa	10. 6	1, 362	72	748
Kansas	9. 1	929	88	708
Kentucky	125. 7	14, 084	1, 052	4, 286
Louisiana	113. 9	14, 890	630	3, 366
Maine	11. 1	1, 337	194	500
Maryland	31. 1	3, 514	555	1, 687
Massachusetts	62. 7	9, 561	234	1, 958
Michigan	30. 0	4, 672	181	874
Minnesota	16. 6	1, 774	194	935
Mississippi	56. 9	7, 926	446	1, 110
Missouri	31. 8	4, 964	144	573
Montana	6. 1	638	45	417

SCHOOL BREAKFAST PROGRAM—BREAKFASTS SERVED, FISCAL YEAR 1978—Continued

[In thousands]

State	Average per day	Total breakfasts served			
		Free	Reduced price	Paid	Total
Nebraska	4.9	536	71	315	922
Nevada	11.2	1,238	61	805	2,104
New Hampshire	4.0	319	39	485	843
New Jersey	41.1	6,915	223	966	8,104
New Mexico	18.2	2,600	133	608	3,341
New York	174.2	28,666	1,987	1,862	32,515
North Carolina	151.8	22,225	1,710	4,376	28,311
North Dakota	3.0	285	15	262	562
Ohio	93.4	16,574	519	1,246	18,339
Oklahoma	38.0	4,976	303	1,306	6,585
Oregon	9.0	1,391	71	285	1,747
Pennsylvania	47.8	8,346	299	918	9,563
Puerto Rico	116.8	15,603	1,300	1,672	18,575
Rhode Island	6.4	1,046	27	115	1,188
Samoa, American	6.3	1,069	----------	17	1,086
South Carolina	71.8	10,491	686	1,228	12,405
South Dakota	7.4	942	73	359	1,374
Tennessee	57.5	7,824	388	1,385	9,597
Texas	196.3	29,232	1,615	4,403	35,250
Trust territory	3.3	1,007	8	22	1,037
Utah	4.8	878	26	191	1,095
Vermont	3.7	114	14	231	359
Virginia	45.1	5,981	381	1,810	8,172
Virgin Islands	1.3	103	20	13	136
Washington	22.5	3,548	301	916	4,765
West Virginia	44.4	5,385	492	1,418	7,295
Wisconsin	14.2	874	103	2,077	3,054
Wyoming	.6	104	6	9	119
Total	2,655.7	380,073	22,293	69,221	471,587

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Calendar No. 226

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96–209

MILITARY CONSTRUCTION AUTHORIZATION FISCAL YEAR 1980

JUNE 12 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. HART, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 1319]

The Committee on Armed Services, having had under consideration the question of military construction for fiscal year 1980 reports the following bill (S. 1319), to authorize certain construction at military installations, and for other purposes, and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to provide construction and other related uthority for the military departments, and the Office of the Secretary f Defense, within and outside the United States, in the total amount of 3,728,166,000.

FORM OF COMMITTEE ACTION

The bill on which the committee held its hearings was S. 856 as re-ested by the administration. The companion bill under consideration the House is H.R. 3947. Subsequent to the submission of the bill to e Congress, and in some instances after the hearings had been com-sted, amendments were requested by the Defense Department. These anges, together with those recommended by the committee, made it sirable to report an original bill.

AUTHORIZATIONS GRANTED

Authorizations granted are set forth in the table below:

Total authorizations granted, fiscal year 1980

Title I (Army):	
Inside the United States	$545, 875, 00
Outside the United States	149, 850, 00
Minor construction	51, 970, 00
Subtotal	747, 695, 00
Title II (Navy):	
Inside the United States	373, 690, 000
Outside the United States	55, 440, 000
Minor construction	33, 080, 000
Subtotal	462, 210, 000
Title III (Air Force):	
Inside the United States	370, 810, 000
Outside the United States	79, 930, 000
Minor construction	29, 310, 000
Subtotal	480, 050, 000
Title IV (Defense agencies):	
Inside the United States	4, 295, 000
Outside the United States	227, 090 000
Secretary of Defense contingency	20, 000, 000
Minor construction	5, 250, 000
Subtotal	256, 635, 000
Title V (Military family housing)	1, 683, 425, 000
Title VII (Reserve Forces):	
Army National Guard	18, 237, 000
Army Reserve	24, 824, 000
Navy and Marine Corps Reserve	16, 090, 000
Air National Guard	29, 500, 000
Air Force Reserve	9, 500, 000
Subtotal	98, 151, 000
Grand total	3, 728, 166, 000

SUMMARY OF COMMITTEE ACTION

The Department of Defense requested $3,721,356,000 in new authority to construct facilities at military installations throughout the United States and overseas, and to operate and maintain the nearly 400,000 units of military family housing.

The Subcommittee on Military Construction and Stockpiles heard testimony from Department of Defense officials and from service representatives in support of the bill.

After carefully reviewing each individual project in the request, the committee eliminated some projects which it felt were of questionable validity or could be deferred without injury to the overall program. In addition, the committee elected to add certain projects which were taken from lists of high priority unfunded requirements provided by the Services.

On June 6, 1979, the committee, by a unanimous vote with a quorum present, agreed to report the bill, as amended, and recommend that the Senate consider it favorably.

The following table summarizes committee action:

[Dollar amounts in thousands]

	Requested	Committee approved	Difference	
			Amount	Percent
Title I, Army	$749, 590	$747, 695	−$1, 895	1
Title II, Navy	479. 490	462, 210	−17, 280	4
Title III, Air Force	492, 700	480, 050	−12, 650	3
Title IV, Defense agencies	223, 000	256, 635	+33, 635	15
Title V, Family housing	1, 698, 425	1, 683, 425	−15, 000	2
Title VII, Reserve Forces	78, 151	98, 151	+20, 000	26
Total	3, 721, 356	3, 728, 166	+6, 810	0

AREAS OF SPECIAL EMPHASIS

ENERGY

The Subcommittee on Military Construction and Stockpiles continued its emphasis on energy matters, holding a special hearing on December 18, 1978, to review the energy initiatives being undertaken by the Department of Defense in concert with the Department of Energy. In general, the Defense Department is to be congratulated on an aggressive energy program. Energy savings attributable to the program are noteworthy.

The committee notes with interest the effort to establish "energy showcase" bases in each of the Services. The idea of using military installations to demonstrate energy initiatives is one that the committee has endorsed previously. The committee will watch these efforts closely and would encourage the Services to move rapidly and aggressively.

Last year the committee inserted a provision to promote solar energy systems in military construction projects. According to testimony the provision appears to have achieved its intended purpose. Over 300 architect-engineer firms, accomplishing $30 million in design contracts, will be required to do solar system analyses this year. As architect-engineer firms develop the talent necessary to do solar system design, solar systems are expected to "spill over" into designs for other Government agencies and the private sector. This provision is expected to result in the installation of $50–$150 million in solar systems each year starting next year according to testimony. The Defense Department proposed certain changes to the provision that was enacted in last year's bill (section 804, Public Law 95–356) which would according to Defense witnesses decrease the likelihood that a solar system would be built. The committee elected not to adopt the changes proposed to insure the maximum potential for solar systems application.

CONSTRUCTION IN EUROPE

Last year the committee set out specific policy for construction projects in Europe. Quoting from the conference report on the Fiscal Year 1979 Military Construction Authorization Act:

> * * * Except in rare, unusual situations where full and convincing justification can be supplied, future construction requirements in NATO "for the training of international forces in peacetime and for their operational use in wartime" * * * shall be funded through the NATO Infrastructure program.

In consonance with this policy the committee has made certain reductions in projects requested for Europe and has approved a few urgent Air Force requirements to beddown new aircraft that were requested as an exception to policy. The committee notes that the Defense Department's request for fiscal year 1980 is largely in line with this policy and reflects reduced unilateral funding requests.

The committee received the Defense Department's report on the backlog of construction in Europe and notes that a level of funding of $300–$400 million in unilateral U.S. requirements will be anticipated each year for the next several years.

The NATO infrastructure reprograming that was required to meet obligations in fiscal year 1979 was endorsed by the committee. However, the committee is concerned that there not be a repeat in fiscal year 1980 of that situation. The committee has increased the authorization request for the NATO infrastructure program for fiscal year 1980 from $150 million to $200 million, partly to preclude another shortfall in fiscal year 1980 similar to the one in fiscal year 1979, and partly to accommodate those NATO construction requirements for which the committee denied unilateral funding.

The committee is not satisfied that current procedures regarding the programing of NATO infrastructure funds provides for the necessary congressional oversight. In essence the authorization and appropriations by the Congress in the annual military construction bills are for the purpose of paying obligations that the United States has previously incurred under the infrastructure programing process. The reason for the large reprograming requirement in fiscal year 1979 was that more payments came due than were anticipated and the payments were larger than anticipated due to the dollar devaluation problem. The committee requests that the Department of Defense review current procedures involved in the infrastructure programing process to determine if there is a "better way of doing business." The committee is particularly concerned that Congress should authorize some ceiling on the obligations which the United States can incur in support of the infrastructure program, rather than being in the position of authorizing funds for payments when due.

CONSTRUCTION BACKLOG

The committee is deeply concerned with the growing construction backlog. That backlog is now approaching $35 billion and the recent levels of expenditure for military construction have not been enough

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to keep up with inflation, much less address any of the backlog. The Defense Department has understandably deferred capital investment in times of tight budgets, but the committee is concerned with the consequences of continued construction deferral. The cost of one F–15 that might be lost because of a deteriorated runway would pay to resurface several runways.

The committee received testimony on numerous projects which the Services consider high priority, but which have been deferred under budgetary constraints. The following examples, which the committee feels should be considered for inclusion in the fiscal year 1981 construction budget, serve to demonstrate that for lack of capital investment dollars, increased operating costs are being incurred and the health and safety of personnel are being threatened:

Pier, Norfolk, Va., $33 million. (Carriers are forced to anchor offshore; they must generate their own power resulting in greatly increased costs, manpower inefficiencies, and energy wasted.)

Replace Heating Lines, Pease Air Base, N.H. $4.9 million. (Replacement of deteriorated, energy extravagant heating lines have been deferred for several years.)

Machine Tool Shop, Portsmouth Naval Shipyard, Maine. (Productivity is being seriously impaired by antiquated facilities and equipment. See separate discussion in this report on Naval shipyards.)

Upgrade Regional Medical Activity, Annapolis, Md. $3.7 million. (The existing facility is in violation of health and safety standards.)

The committee recognizes that the Defense Department must put a limit on its capital investment program and set priorities within that limit. The committee is not, however, satisfied that the Defense Department is using a rational approach to set that limit. Unduly constraining capital investment today may simply be transferring the problem to a future budget. Future requirements for MX, an east coast TRIDENT site, space shuttle, cruise missile facilities, et cetera, are going to demand significantly increased investments in military construction. The Defense Department is encouraged to examine its procedures regarding "how much is enough" and attempt to develop a rational, systematic approach to sizing the annual military construction request.

U.S. AIR DEFENSE

The recent decision to dismantle the Air Force Air Defense Command is the culmination of a series of incremental judgments about air defense of North America made by several Secretaries of Defense over the last two decades. It raises serious questions about the adequacy, character, and organizational structure of our future air and space defense which should be addressed comprehensively as an integral and central element of our strategic policy.

The Department of Defense should therefore conduct a major review of future air and space defense requirements which should include the following elements:

1. A definition of the forces (interceptors and warning systems) required in the future to protect North American air space against Soviet Union aircraft.

2. A definition of the forces (interceptors and warning systems) necessary to protect North American air space against future non-Soviet threats.

3. A definition of the space-based systems and command structure required to manage our deterrent effectively in the future. The review should also determine how best to consolidate operationally related space-based systems to achieve the greatest military cost effectiveness.

4. A definition of the command and control and organizational structure required to manage effectively and efficiently our North American strategic defense forces in the future.

This review should be forwarded to Congress with the fiscal year 1981 budget.

CHILD CARE CENTERS

The committee has deferred the Army's request for the construction of two child care centers. These facilities are primarily for the use of working mothers who are the spouses of enlisted personnel. Users pay a fee (about 40% less than comparable civilian fees) and these fees offset about two-thirds of the operating costs—with the difference being paid from appropriated funds. According to testimony the Army has a requirement for approximately $100 million in child care facilities. In addition to the centers requested in this budget the Army has built or programmed five others using non-appropriated funds. The Air Force as a practice builds all of its child care centers with non-appropriated funds. It is this inconsistency in fund source between Services and within the Army itself that causes the committee to defer the two centers requested to be built with appropriated funds. The committee has taken the position in the past that facilities which are revenue producers—officer and enlisted clubs, commissaries, exchanges, automobile hobby shops, etc.—commonly referred to as morale, welfare and recreational facilities—should be built from non-appropriated funds. It is the committee's impression that child care centers fall into this category of facilities.

BACKLOG OF SHIPYARD CONSTRUCTION

The committee has expressed its concern in the past with regard to the low level of capital investment in facilities designed to protect the industrial base of the Defense Department—depots, arsenals, ammunition plants in the Army, logistics centers in the Air Force, and aircraft rebuild facilities and shipyards in the Navy. Of particular concern is the growing backlog of shipyard construction.

The committee received information on badly needed, but unbudgeted, projects at Pearl Harbor, Portsmouth, Norfolk, Charleston, and Bremerton Shipyards. The committee hereby puts the Navy on notice that the question of the backlog of shipyard construction and how that backlog will be addressed will be a high priority matter for committee consideration during the fiscal year 1981 budget cycle.

The Navy should be prepared to provide the committee with details of this situation.

ENCROACHMENT AROUND EXPLOSIVE STORAGE AREAS

During its deliberations, the committee was made aware of a high priority project in Hawaii that provides for acquisition of real estate within the explosive safety arcs surrounding explosive storage magazines to prevent encroachment by non-Federal interests. The project was not included in the budget request.

The committee has addressed this problem in previous Military Construction Acts as it relates to runway hazard zones, but this is the first case involving real estate acquisition to protect explosive storage areas. The committee requests that the Department of Defense provide a report on the scope and extent of this problem to include the number of installations now operating under a waiver of explosive safety distance criteria and an estimate of the cost to correct the situation. Such report should be provided by March 1, 1980.

BUDGET ESTIMATE

In compliance with the Budget Reform Act, the Congressional Budget Office has furnished the following budget estimate:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 11, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Report Office has prepared the attached cost estimate for S. 856, the Military Construction Authorization Act, 1980.

Should the committee so desire, we would be pleased to provide further detail on this cost estimate.

Sincerely,

ROBERT D. REISCHAUER,
(For Alice M. Rivlin, Director.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 856.
2. Bill title: Military Construction Authorization Act, 1980.
3. Bill status: As ordered reported by the Senate Armed Services Committee on May 15, 1979.
4. Bill purpose: This bill authorizes construction at military instal- ations, operation of family housing, repayment of debt, and the ap- ropriation of funds for these purposes.

5. Cost estimate:

Authorization level:	
Fiscal year:	Millio
1980	$3,72
1981	----
1982	----
1983	----
1984	----
Estimated outlays:	
Fiscal year:	
1980	1,04
1981	1,24
1982	76
1983	31
1984	13

The costs of this bill fall within function 050. See table I for detai

6. Basis for estimate: The authorization amounts are as stated in th bill. Costs are estimated according to historical patterns for simila activities. It is also assumed that the authorization amounts will b appropriated in full and available for obligation by October 1, 197 An additional assumption is that $123.4 million is authorized for deb reduction in family housing and will not outlay.

Section 502(b) authorizes appropriations pursuant to pay raise under current law. This estimate assumes a 5.5-percent pay raise tha would increase the authorization by about $1.3 million.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Julie Doherty (225-4844).

10. Estimate approved by: James L. Blum, Assistant Director fo Budget Analysis.

TABLE 1.—BUDGET IMPACT

[By fiscal years, in millions of dollars]

Budget function	Authorization amounts	Estimated outlays [1]				
		1980	1981	1982	1983	19
Title I: Military construction, Army	746.135	27	267	223	112	
Title II: Military construction, Navy	458.910	28	207	133	60	
Title III: Military construction, Air Force	480.050	19	197	168	67	
Title IV: Military construction, Defense agencies	256.635	8	95	103	31	
Title V:						
Family housing less debt reduction	1,555.000	949	425	109	37	
Family housing debt reduction	123.425	0	0	0	0	
Anticipated pay raise	1.300	1	0	0	0	
Homeowners assistance	5.000	5	0	0	0	
Title VII:						
Military construction:						
Army National Guard	18.237	1	13	3	1	
Army Reserve	24.824	1	11	9	2	
Naval Reserve	16.090	1	6	6	1	
Air National Guard	29.500	2	20	6	1	
Air Force Reserve	9.500	1	6	2	1	
Total	3,724.606	1,043	1,247	762	313	13

[1] Totals may not add due to rounding.

REGULATORY IMPACT

Paragraph 5 of rule XXIX of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on such bill. The committee finds that in the case of this bill there is no regulatory impact.

TITLE I—ARMY

The Army request under title I of the bill amounted to $749,590,000. The committee, after careful review and consideration of the Army request, approves the following programs.

	Army request	Committee approved
Inside the United States	$542,520,000	$575,875,000
Outside the United States	153,990,000	149,850,000
Minor construction	53,080,000	51,970,000
Total	749,590,000	747,695,000

The Army program emphasizes construction essential toward improving readiness, combat capability, and the living and working conditions of the soldiers. Emphasis is also continuing on overseas construction for U.S. Forces in Europe, and is related to improving readiness, living, and working conditions.

This is the fourth year that ammunition facilities have been included in the military construction authorization request. The $82,990,000 requested is considerably larger than the amount requested last year. The majority of this request, $66,000,000 is for the construction of a project at Radford Army Ammunition Plant.

Other major projects requested by the Army include: The construction of an advanced waste treatment plant at Fort Meade, Md., for $18,500,000, the construction of barracks for unaccompanied enlisted personnel at Fort Ord, Calif., for $16,500,000 and at Fort Campbell, Ky., for $12,800,000, a project for a consolidated maintenance facility at Fort Riley, Kans., for $15 million, and tactical equipment shops and facilities at Fort Polk, La., for $13,600,000 and Fort Stewart-Hunter, Ga., for $10 million, the acquisition of land at Fort Bliss, Tex., for $14 million, the modernization of maintenance facilities in Germany at Manheim for $12,800,000 and Ferris Barracks for $10,600,000, an athletic facility at the U.S. Military Academy for $12,200,000 and the renovation of a wharf at Sunny Point Army Terminal, N.C., for $11,200,000. Pollution abatement projects totaling $148,600,000 are also requested to continue the program to improve the environment of Army installations and achieve compliance with appropriate laws. Nine additional pollution abatement projects at a total cost of $2,340,000 were included in the Army's request under minor construction. Energy conservation investment projects in the amount of $41,450,000 were requested to continue this very important program of reducing the use of nonrenewable fossil fuels. Fourteen additional energy conservation projects costing less than $500,000 were included in the Army's request under minor construction at a total cost of $3,520,000.

The committee added one additional energy conservation project a Picatinny Arsenal, N.J., for $1,800,000.

FACILITY CLASS SUMMARY

[In thousands of dollars]

Description	Army request	Commit approv
Operational and training facilities	53, 539	61,
Maintenance and production facilities	105, 630	112,
Ammunition facilities	82, 990	82,
Research, development, and test facilities	18, 700	11,
Supply facilities	36, 860	24,
Hospital and medical facilities	24, 640	16,
Administrative facilities	540	5
Housing and community facilities	127, 950	119,
Utilities and ground improvement	226, 251	221,
Real estate	19, 410	19,
Minor construction	53, 080	51,
Various categories	0	25,
Total	749, 590	747,

The following tables summarize the authorization request by majo commands and facility classes and the authorization provided by th committee.

MAJOR COMMAND SUMMARY

[In thousands of dollars]

Major command	Army request	Commit approv
Inside the United States:		
U.S. Army Forces Command	190, 340	184,
U.S. Army Training and Doctrine Command	82, 070	95,
U.S. Army Materiel Development and Readiness Command	130, 140	126,
Ammunition facilities	82, 990	82,
U.S. Army Military Academy	13, 350	13,
U.S. Army Communications Command	8, 420	9,
U.S. Army Military Traffic Management Command	34, 560	33,
U.S. Army Health Services Command	650	
Total, inside the United States	542, 520	545,
Outside the United States:		
8th U.S. Army	3, 150	
National Missile Range, Kwajalein	2, 900	2,
U.S. Army, Europe	141, 780	117,
U.S. Army, Japan	2, 700	
U.S. Army Intelligence and Security Command	2, 800	2,
U.S. Army Forces Command	660	26,
Total, outside the United States	153, 990	148,
Minor construction	53, 080	51,
Total	749, 590	747,

All ammunition production facilities regardless of cost, will be tabulated and discussed under the category of ammu tion production facilities.

Minor construction projects in the regular MCA program totaling $27,080,000, although at known locations, wil tabulated and discussed under the heading of minor construction throughout this report.

POLLUTION ABATEMENT

The committee approved all of the $148,600,000 requested for air an water pollution abatement projects. The air pollution projects provi five boiler plant emission control projects, two explosive waste incine ators, one contaminated waste incinerator, one demilitarization was treatment facility, and four emission control projects for miscellaneo industrial emissions. The approved air pollution abatement projects total $34,150,000. All of the air pollution abatement projects are located in the United States. The water pollution abatement projects include projects designed to accomplish pollution abatement requirements identified for installations based on studies, two ship sewage facilities, industrial waste treatment facilities, a project required to eliminate the migration of chemical contaminants off Rocky Mountain Arsenal, Colo., projects related to pollution abatement caused by vehicle maintenance, and sewage treatment plants. The largest pollution abatement project is a sewage treatment facility at Fort Meade, Md., for $18,500,000. The approved water pollution projects total $114,450,000.

ENERGY CONSERVATION INVESTMENT PROJECTS

Energy conservation projects in the amount of $42,950,000 in major construction funds were approved. Eleven additional projects each costing less than $500,000 were approved under minor construction at a total cost of $3,520,000. The total amount for major and minor energy conservation projects which were approved is $46,470,000. The energy conservation projects include solar energy projects, the use of insulation, storm windows, and other conservation techniques to improve the efficiency of heating facilities, the use of control systems to regulate energy requirements, and the improvement in efficiency of heating plants. The committee added one energy conservation project for $1,800,000 at Picatinny Arsenal, N.J.

U.S. Army Forces Command

The committee approved $184,800,000 for 33 projects at 16 U.S. Army Forces Command installations.

At Fort Bragg, N.C., a pollution abatement project was approved. A child care center was deferred without prejudice.

Four projects, the modernization of unaccompanied officers quarters, a flight simulator building, a barracks with administrative and supply facilities, and a pollution abatement project were approved at Fort Campbell.

For Fort Drum, N.Y., an energy conservation project for insulation and weatherstripping was approved.

The committee approved an advanced waste treatment facility at Fort George G. Meade, Md.

At Fort Greely, Alaska, an ammunition magazine improvement project was approved.

Three projects, a hangar with shops, a water pollution abatement project and a company administration and supply building project, were approved at Fort Hood, Tex. A child care center was deferred without prejudice.

At Fort Hunter-Liggett, Calif., a company administration and supply building project was approved.

A vehicle maintenance pollution abatement project at Fort Lewis, Wash., was approved.

The committee approved a barracks with dining facility and a project to provide facilities for the intelligence support company and a crypto facility at Fort Ord, Calif.

Four projects at Fort Polk, La., airfield support facilities, a tactical equipment shop and facilities, a pollution abatement project, and a land acquisition project were approved.

An airfield fire and rescue station and a barracks and dining facility modernization project were approved at Fort Richardson, Alaska.

A consolidated maintenance facility, tactical equipment shops and facilities, and a pollution abatement project were approved for Fort Riley, Kans.

One pollution abatement project to close an existing landfill and correct infiltration into the sanitary sewers system was approved at Fort Sheridan, Ill.

A dental clinic at Schofield Barracks, Hawaii, was approved.

Six projects were approved for Fort Stewart/Hunter Army Airfield, Ga. These projects included a tactical equipment shop and facilities, a non-divisional direct support maintenance facility, a barracks with dining facility, company administrative and supply buildings, a pollution abatement project and an addition to the central heating and cooling plant.

One pollution abatement project at Yakima Firing Center, Wash., to provide maintenance hardstands and pollution abatement measures was approved.

The committee added, deferred, or denied the following projects:

Installation and project	*Thousands*
Fort Bragg: Child care center[1]	−$1,650
Fort Campbell: Modernization unaccompanied officers quarters[6]	+1,650
Fort Hood:	
CIDC field operations building[2]	−1,250
Child care center[1]	−1,550
Company administration and supply buildings[6]	+4,450
Fort Hunter-Liggett: Health clinic[3]	−1,350
Fort Polk: Land acquisition[4]	+460
Fort Richardson: Airfield fire and rescue station[6]	+800
Various locations: Korea realignment activity[5]	−7,100
Total	−5,540

[1] Deferred without prejudice.
[2] Previous authorization remains valid.
[3] Requirement needs further justification.
[4] Moved from minor to major category.
[5] Status of 2d Infantry Division return from Korea is uncertain.
[6] Projects added by committee.

U.S. ARMY TRAINING AND DOCTRINE COMMAND

The committee approved $95,275,000 for 30 projects at 12 installations of the U.S. Army Training and Doctrine Command.

A pollution abatement project was approved for Camp Perry, Ohio.

The committee approved an energy conservation project to insulate buildings and a water pollution abatement project at Fort Belvoir, Va.

At Fort Benjamin Harrison, Ind., two projects, an energy conservation project and a pollution abatement project were approved.

Two energy conservation investment projects, an engineer vehicle maintenance facility, and an armor battalion tactical equipment shop were approved for Fort Benning, Ga.

The committee approved three projects for Fort Bliss, Tex. These projects include a land acquisition, a hospital annex to the hospital, and alteration of buildings to provide training facilities for the Patriot weapons system.

At Fort Eustis, Va., three energy conservation investment projects and one water pollution abatement project were authorized.

A tank training facility, two energy conservation investment projects, an armor crew training facility, and a water pollution abatement project were approved for Fort Knox, Ky.

The committee approved an administrative facility at Fort Leavenworth, Kans.

A small arms storage and repair shop, an energy control system, and the upgrade of a sanitary sewer system were approved for Fort Lee, Va.

At Fort Leonard Wood, Mo., the committee approved a solid waste incinerator project and an instruction building for engineer equipment.

Two projects, an electronic maintenance facility and the renovation of barracks, were approved at Fort Rucker, Ala. The Army also requested new authorization for a project to upgrade stagefields at Fort Rucker, which had been authorized in fiscal year 1979 at a cost of $2,280,000. The difference between the fiscal year 1979 project and the requested fiscal year 1980 project for $3,500,000 was the addition of the impact of inflation and a revision in the scope to add a base for a tower, additional pavement and lighting at the stagefields and the one Army airfield being upgraded. While the committee approves the revised scope, it feels that since the original authorization is still valid and authority for a cost increase can be provided under section 603 which covers cost variations, it will not be necessary to provide new authorization.

A water pollution abatement project was approved for Fort Story, Va.

The committee deferred, deleted or added the following projects:

Installation and project	*Thousands*
Fort Benning: Engineer vehicle maintenance facility[1]	+$5,300
Fort Chaffee: Land acquisition[2]	−510
Fort Knox: Tank training facility[1]	+13,065
Fort Leavenworth: Dental clinic[3]	−1,150
Fort Rucker: Upgrade stagefields[4]	−3,500
Total	+13,205

[1] Added by committee.
[2] Land acquired by court action.
[3] Justification based on treating dependents.
[4] Previously authorized.

U.S. ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

The committee approved $124,940,000 for 58 projects at 36 installations of the U.S. Army Materiel Development and Readiness Command.

An explosion mechanics facility was approved for Aberdeen Proving Ground, Md.

At Anniston Army Depot, Ala., the committee approved three projects, a combat vehicle rebuild support building, an emission control air pollution abatement project, and an industrial waste treatment water pollution project.

An energy conservation project to provide insulation and temperature control was approved at Badger Army Ammunition Plant, Wis.

The committee approved three pollution abatement projects to provide a demilitarization waste treatment facility, an industrial waste treatment facility and an explosive waste incinerator at Crane Army Ammunition Facility, Ind.

The committee approved an emission control air pollution abatement project for Detroit Arsenal, Mich.

The committee approved the Blossom Point land acquisition project for Harry Diamond Laboratories, Md.

At Dugway Proving Ground, Utah, an insulation and weatherstripping energy conservation project was approved.

The committee approved an industrial waste treatment water pollution abatement project at Fort Monmouth, N.J.

A water pollution abatement project was approved at Indiana Army Ammunition Plant, Ind.

At Iowa Army Ammunition Plant, Iowa, the committee approved an energy conservation project to insulate buildings and an air pollution abatement project.

The committee approved two industrial sanitary waste water pollution abatement projects at Joliet Army Ammunition Plant, Ill.

One water pollution abatement project at Kansas Army Ammunition Plant, Kans., was approved.

The committee approved the industrial waste treatment facility at Lake City Army Ammunition Plant, Mo.

At Letterkenny Army Depot, Pa., an ammunition inspection and test facility was approved by the committee.

The committee approved a health clinic and a water pollution abatement project at Lexington-Blue Grass Army Depot, Ky.

Two projects were approved at McAlester Army Ammunition Plant, Okla., an explosive waste incinerator and contaminated waste incinerator.

A project to provide emission control of a boiler plant at Michigan Army Missile Plant, Mich., was approved.

At Newport Army Ammunition Plant, Ind., the committee approved a project to provide the upgrade of security for chemical storage.

The committee approved six projects at Picatinny Arsenal, N.J. The projects included three energy conservation projects, one pollution abatement project, an ignition, rheological and combustion laboratory, and a radiological facility addition.

An air pollution abatement project was approved for Radford Army Ammunition Plant, Va.

At Red River Army Depot, Tex., the committee approved a project to replace boilers.

A barracks complex was approved at Redstone Arsenal, Ala.

The committee approved a waste treatment plant at Riverbank Army Ammunition Plant, Calif.

At Rock Island Arsenal, Ill., the committee approved an air pollution project to provide emission control at a boiler plant.

A water pollution abatement project to provide liquid waste disposal at Rocky Mountain Arsenal, Colo., was approved.

The committee approved an air pollution abatement project at Scranton Army Ammunition Plant Pa.

Four projects including an upgrade of the airfield, an ammunition training facility, a barracks, and the upgrade of the sewage treatment plant were approved at Seneca Army Depot, N.Y.

For Sharpe Army Depot, Calif., a project to provide storage modernization was approved.

A road construction and improvement project was approved at Sierra Army Depot, Calif.

The committee approved four projects at Tobyhanna Army Depot, Pa. These four projects include alterations to the electronic maintenance facility, an energy conservation project, an air pollution abatement project and a sewage treatment facility.

An energy conservation investment project was approved for Tooele Army Depot, Utah.

The committee approved a water pollution abatement project to line drainage ditches at Volunteer Army Ammunition Plant, Tenn.

The committee approved a project to modify the water pollution control plant at Watervliet Arsenal, N.Y.

A temperature and altitude test facility, a project to provide fixed telescope sites, and a land acquisition were approved by the committee at White Sands Missile Range, N. Mex.

A dynamic environmental test facility and an improvement of range access roads were approved at Yuma Proving Ground, Ariz.

At Corpus Christi Army Depot, Tex., the committee approved an advanced power train test facility.

The committee deferred or added the following projects:

Installation and project	*Thousands*
Aberdeen Proving Ground: Human factors engineering lab[1]	−$5,700
Corpus Christi Army Depot: Test facility[2]	+1,560
Picatinny Arsenal: Energy conservation[2]	+1,800
Redstone Arsenal: Radar operation facility[3]	−1,300
Total	−3,640

[1] Deferred without prejudice.
[2] Added by committee.
[3] Previously authorized.

AMMUNITION FACILITIES

The committee approved $82,990,000 for 21 projects at 10 army ammunition plants.

For Holston Army Ammunition Plant, Tenn., the committee approved three projects to include fire protection sprinkler systems, magazine dock alterations, and overfire air systems for the boiler plant.

At Indiana Army Ammunition Plant, Ind., the committee approved a loading and packing facility, a valve pits for inert area project, and fuel storage facilities.

Security fencing for ammunition and explosives was approved for Lake City Army Ammunition Plant, Mo.

Four projects were approved at Lone Star Army Ammunition Plant, Tex. The projects include a centralized container ammunition facility, a patrol and access road at the rail classification yard, the replacement of a fire and security facility, and the installation of lighting protection.

A fire protection sprinkler system was approved at Longhorn Army Ammunition Plant, Tex.

At Louisiana Army Ammunition Plant, La., the committee approved a forklift battery charging building and a storm drainage and parking area improvement project.

A project to construct two railroad bridges and a project to provide cathodic protection for steel water tanks were approved at Milan Army Ammunition Plant, Tenn.

The committee approved the major project to provide a continuous automated multi-base line manufacturing facility and the replacement of explosion protection barricades at Radford Army Ammunition Plant, Va.

The committee approved a project to construct a fire station at Riverbank Army Ammunition Plant, Calif.

At Scranton Army Ammunition Plant, Pa., two projects were approved to improve plant lighting and improve electrical distribution system.

U.S. ARMY COMMUNITIONS COMMAND

The committee approved $9 million for five projects at two locations.

The committee approved a flight control tower and an energy conservation investment project at Fort Huachuca, Ariz.

Three projects were approved by the committee at Fort Ritchie, Md., to provide for the upgrade of air conditioning, for a sewage treatment plant at site R, and for a sewage treatment plant at Fort Ritchie.

U.S. MILITARY ACADEMY

The committee approved $13,350,000 for two projects at the U.S. Military Academy. The projects will provide an indoor athletic facility and improvements to the sanitary and storm sewer systems.

U.S. ARMY HEALTH SERVICES COMMAND

The committee approved $650,000 for a project to improve research facilities at Walter Reed Army Medical Center.

U.S. ARMY MILITARY TRAFFIC MANAGEMENT COMMAND

The committee approved $33,310,000 for 11 projects at three locations for the U.S. Army Military Traffic Management Command.

A ship waste disposal water pollution abatement project was approved at the Military Ocean Terminal, Bayonne, N.J.

At Oakland Army Base, Calif., a ship sewage facility was approved.

Nine projects were approved for the Military Ocean Terminal, Sunny Point, N.C. These projects include the renovation of the south wharf, a transfer area expansion, the expansion of the rail holding area, the cargo transfer area, container holding area and roads, a container suspect area, an empty truck parking area, and interchange yard expansion and a rail car and vehicle cleaning area.

The committee deferred the following project:

Installation and project	*Thousands*
Military ocean terminal, Sunny Point, container restuffing facility [1]	$1,250
Total	$1,250

[1] Previously authorized.

EIGHTH U.S. ARMY, KOREA

The committee deferred the project for a milk plant in Korea based on uncertain tenure of the 2d Division and the belief that a contract with a private company or the Korean Government could provide required milk products.

Installation and project	*Thousands*
Korea, milk plant	$3,150
Total	3,150

NATIONAL MISSILE RANGE, KWAJALEIN

The committee approved a project to resize and modernize range facilities at the National Missile Range, Kwajalein, for $2,900,000.

U.S. ARMY FORCES COMMAND OVERSEAS

The committee approved five projects in Panama for $26,160,000. These five projects provide for the renovation of medical warehouses at Corozal, facilities alteration at Fort Clayton, facilities alteration at Corozal and Fort Clayton, facilities renovation and expansion at Howard Air Force Base and Fort Kobbe, and test facilities for the U.S. Army Tropic Test Center at Cerro Pelado.

The committee added the following project:

Installation and project	*Thousands*
Various locations, Panama	+$25,500
Total	+25,500

U.S. ARMY, JAPAN

The committee deferred the project to replace petroleum storage facilities at Okinawa.

Installation and project	*Thousands*
Okinawa, Japan, replace POL storage tanks [1]	−$2,700
Total	−2,700

[1] Current POL requirement is 95 percent satisfied with adequate storage facilities.

U.S. ARMY, EUROPE

The committee approved $117,990,000 for 34 projects for U.S. Army, Europe. All of the approved major construction projects for U.S. Army, Europe are in Germany. The approved projects include: Defense satellite communications systems at Landstuhl and Augsburg, an operations building with maintenance facility at Sickels Airfield, Fulda, moving target simulator building at Baumholder, a tactical fire direction system facility at Vilseck, a simulated city at Hohenfels Training Area in which to conduct training for military operations in built-up areas (MOBA), moving tank training facilities at various locations; a hangar and maintenance facilities modernization at Mannheim, an ordnance maintenance shop at Bremerhaven, maintenance facilities modernization at Fulda, Gelnhausen, and Erlangen; an ammunition inventory building at Miesau Army Depot, improvement or construction of hardstands at Buedingen, and Kirchgoens; barracks projects at Fulda, Wildflecken, Hanau, Nuernberg, and relocatable barracks at various locations; an electrical distribution project at Hohenfels, and the provision of sanitary facilities at Karlsruhe.

The committee deferred or reduced the following projects:

Installation and projects	*Thousands*
Germany:	
Basic load site [1]	−$1,900
Ammunition upload [1]	−5,100
Pave roads, Vilseck [1]	−1,400
Pave roads, Hohenfels [1]	−640
Various clinic upgrades [2]	−3,050
Dental clinic, Heidelberg [2]	−2,100
Gymnasium, Grafenwoehr [2]	−3,050
Gymnasium, Wertheim [2]	−1,150
Railroad spur, Dahn [3]	−4,250
Simulator, Baumholder and Garlstedt [4]	−550
Total	−23,790

[1] NATO requirements should be funded under NATO Infrastructure.

[2] Committee is recommending reduction in dependents. Review of requirements for projects.

[3] Withdrawn by Army.

[4] Reduced portion for Garlstedt as justification for one brigade is questioned.

U.S. ARMY INTELLIGENCE AND SECURITY COMMAND

The committee approved $2,800,000 for two projects at Location 280, Berlin, Germany for the U.S. Army Intelligence and Security Command. The two projects are a defense satellite communications system, and an air conditioning upgrade of an existing facility.

MINOR CONSTRUCTION

The committee approved $51,970,000 for minor construction projects costing under $500,000. An amount of $26 million has been designated for unknown or exigent locations. The remaining $25,970,000 is approved for minor construction projects which are known locations.

Installation and project	*Thousands*
Fort Myer: Correct officer's club building deficiencies [1]	−$350
Fort Dix: Modification primary substation [2]	−300
Fort Polk: Land acquisition [3]	−460
Total	−1,110

[1] Non-appropriated funds should be used.

[2] Deferred pending decision on future of Fort Dix.

[3] Moved from minor to major construction category.

PREVIOULY AUTHORIZED PROJECTS

The Army requested authorization for four projects that were previously authorized:

[In thousands of dollars]

Project	Fiscal year of prior authorization	Prior authorization	Current request
Fort Hood, Tex.: CIDC field operations building	1978	890	1,250
Redstone Arsenal, Ala.: Radar operation facility	1978	962	1,300
Fort Rucker, Ala.: Upgrade stage fields	1979	2,280	3,500
Sunny Point Terminal, N.C.: Container restuffing facility	1979	1,228	1,250

The committee feels that new authorization is not required for these projects as the authorization provided in fiscal year 1978 and fiscal year 1979 has not expired. The committee has taken action to extend the authorization of the fiscal year 1978 projects which would have expired at the end of fiscal year 1979 by including them in section 605 which extends the expiration date.

The committee recognizes that there may be cost increases due to inflation since the original approval but the revised costs can be considered under section 603 of the act pertaining to cost variations when bids have been received.

TITLE I—SUMMARY OF AUTHORIZATION ACTIONS

A summary of actions taken on the title I request of the Army
tabulated below by project:

Installation and project	*Thous*
Total of request	$749,5
U.S. Army Forces Command:	
Fort Bragg, N.C.: Child care center	−1,6
Fort Campbell, Ky.: Modernization unaccompanied officers quarters	+1,6
Fort Hood, Tex.:	
CIDC field operations building	−1,
Child care center	−1,
Company administration and supply buildings	+4,
Fort Hunter-Liggitt, Calif.: Health clinic	−1,
Fort Richardson, Ala.: Airfield fire and rescue station	+
Various locations: Korea realignment activity	−7,
U.S. Army Training and Doctrine Command:	
Fort Benning, Ga.: Engineer vehicle maintenance facility	+5,
Fort Chaffee, Ark.: Land acquisition	−
Fort Knox, Ky.: Tank training facility	+13,
Fort Leavenworth, Kans.: Dental clinic	−1,
Fort Rucker, Ala.: Upgrade stagefields	−3,
Fort Dix, N.J.: Primary substation [1]	−
U.S. Army Materiel Development and Readiness Command:	
Aberdeen Proving Ground, Md.: Human factors engineering laboratory	−5,
Corpus Christi Army Depot: Advanced power train test facility	+1,
Picatinny Arsenal, Pa.: Energy conservation project	+1,
Redstone Arsenal, Ala.: Radar operations facility	−1,
Military District of Washington:	
Fort Myer, Va.: Correct officer's club building deficiencies [1]	−
U.S. Army Military Traffic Management Command:	
Military Ocean Terminal, Sunny Point, N.C.: Container restuffing facility	−1,
U.S. Army Communications Command:	
Fort Huachuca, Ariz.: Flight control tower	+
Eighth U.S. Army:	
Korea: Milk Plant	−8
U.S. Army Forces Command Overseas:	
Various locations, Panama	+25
U.S, Army, Japan:	
Okinawa: Replace POL Storage Tanks	−2
U.S. Army, Europe:	
Hanau: Basic load site	−1
Various locations: ammunition upload	−5
Vilseck: Pave roads, ammunition point	−1
Hohenfels: Pave roads, ammunition point	
Various locations: Clinic upgrade	−3
Heidelberg: Dental clinic	−2
Grafenwoehr: Gymnasium	−3
Wertheim: Gymnasium	−1
Dahn: Railroad spur	−4
Baumholder and Garlstadt: Moving target simulators [2]	
Net reduction	−
New authorization total	74

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[1] Minor construction.
[2] Partial reduction.

TITLE II—NAVY

The Navy requested $479,490,000 under title II of the bill distributed as follows:

	Request	Authorized
Inside the United States	$386,760,000	$373,690,000
Outside the United States	59,340,000	55,440,000
Title II subtotal	446,100,000	429,130,000
Minor construction	33,390,000	33,080,000
Total title II, new authorization, Navy	479,490,000	462,210,000

SUMMARY OF PROGRAM

Navy witnesses testified that the Navy program will provide facilities for new and current missions, and modernization of the shore establishment.

In their military construction program this year, the Navy stressed projects associated with operational, maintenance and production, supply, housing and community facilities, pollution abatement, energy conservation, and utilities.

Under strategic forces, $40.1 million or approximately 8 percent of this year's program was requested for Trident construction and for relocation of the Rota squadron to Kings Bay, Ga. Included is $10 million for Trident community impact support at Bangor, Wash.

Operational facilities constitute approximately 10 percent of the Navy's request, and maintenance and production facilities 12 percent. The modernization of shipyards is approximately 6 percent. For supply facilities, $53 million is requested, which is 11 percent of the request.

The Navy continues to emphasize barracks and community support with 16 percent of its program allocated to these projects. This year's program requested 3,617 new and 423 modernized barracks enlisted spaces predominantly for the lower rated personnel, with 90.4 percent for E1–E4 personnel, 9.1 percent for E5–E6, and only ½ of a percent for higher rated personnel.

The request for air and water pollution abatement projects was $86,660,000, $4,760,000 and $81,840,000, respectively; approximately 18 percent of the Navy request.

The title II request includes four air pollution and 34 water poll tion abatement projects with a breakdown of the types as follows:

Facilities description	Projects
Air:	
Air emission control	2
Solid waste disposal system	2
Total	4
Water:	
Ship waste water collection ashore	2
Sanitary sewage collection and treatment improvements	11
Municipal sewer connections	5
Oil spill prevention	12
Industrial waste collection	4
Total	34
Grand total	38

For energy conservation, $47 million or 10 percent was requested fo facilities to meet energy conservation goals. The projected program fo the next 4 years should average $55 million per year. This year's in vestment of $47 million will save the equivalent of approximatel 300,000 barrels of fuel oil annually. The investment will result in an nual cost avoidance of approximately $8 million and will amortize th investment in 6 years.

The title II request includes 44 energy conservation projects a follows:

Facilities description	Projects	Amount (thousand)	Payback (years)
Building alterations	10	$11,600	5.3
Insulation and storm windows	9	5,380	8.2
Steam and condensate systems	9	17,250	7.4
Lighting systems	8	2,730	3.9
Energy monitoring and control systems	5	7,440	4.6
Boiler plant modifications	1	900	6.4
Heating, ventilation, and air conditioning	1	100	2.5
Solar	1	1,300	10.0
Total	44	46,700	48.3

MINOR CONSTRUCTION

The Navy requested $33 million for minor construction. Of thi amount, $20 million is for unidentified requirements titled "exigen construction", and $13 million is identified requirements titled "speci fied locations." The specified locations projects are 25 percent of th total number of projects but only 2 percent of the dollar request fo project construction. About 80 percent of the project dollars for speci fied locations minor construction are devoted to energy conservation pollution abatement, and occupational safety and health. The tables that follow show the amounts by major command, energy conservation, pollution abatement, and occupational health and safety:

FISCAL YEAR 1980 MILITARY CONSTRUCTION PROGRAM—MINOR CONSTRUCTION AUTHORIZATION SUMMARY BY MAJOR COMMAND

	Thousands
Major command, inside the United States:	
Marine Corps	$900
Office of Naval Research	570
Commander in Chief, Atlantic Fleet	1,880
Commander in Chief, Pacific Fleet	600
Naval Education and Training Command	1,670
Chief of Naval Material	6,190
Naval Security Group Command	600
Subtotal	12,410
Outside the United States:	
Commander in Chief, Atlantic Fleet	210
Commander in Chief, Pacific Fleet	150
Chief of Naval Material	350
Naval Telecommunications Command	270
Subtotal	980
Total specified	13,390
Exigent	20,000
Total minor construction	33,390

	Projects	Cost (thousands)	Percent of minor construction	
			Projects	Total
Energy conservation	19	$3,950	36.5	29.5
Pollution abatement	14	3,390	26.9	25.3
OSHA	10	3,250	19.2	24.3
Regular	9	2,800	17.4	20.9
Total	52	13,390	100.0	100.0

The committee deferred one minor construction project, an operational trainer facility at the Fleet Combat Training Center, Atlantic, Dam Neck, Va., in the amount of $460,000. This project was denied because the Tomahawk weapon system procurement is being slowed.

The committee recognizes the need for two minor construction projects at the Naval Station, Panama Canal that were contained in the fiscal year 1979 supplemental request. The committee is not providing specific authority for these projects, however the Navy may use exigent minor construction authority.

The committee approved $33,080,000 for minor construction.

The committee gave careful consideration to all projects, and the following tables summarize the authorization requested and approved by major command and facilities classes.

MAJOR COMMAND SUMMARY

[In thousands of dollars]

	Navy request	Committ approv
Inside the United States:		
Marine Corps	$68, 480	$86, 5
Chief of Naval Operations	40, 150	21, 5
Commander in Chief, Atlantic Fleet	38, 370	35, 8
Commander in Chief, Pacific Fleet	48, 400	49, 2
Naval Education and Training	18, 440	21, 7
Bureau of Medicine and Surgery	7, 950	2, 0
Chief of Naval Material	158, 465	149, 1
Naval Telecommunications Command	0	9
Naval Security Group Command	6, 505	6, 5
Total, inside the United States	386, 760	373, 6
Outside the United States:		
Marine Corps	11, 700	11, 7
Office of Naval Reserach	30	
Commander in Chief, Atlantic Fleet	19, 810	19, 0
Commander in Chief, Pacific Fleet	3, 900	
Commander in Chief, Naval Forces Europe	16, 300	16, 3
Chief of Naval Material	3, 700	3,
Naval Telecommunications Command	2, 500	2, 5
Naval Security Group Command	1, 400	1,
Total, outside the United States	59, 340	55,
Subtotal	446, 100	429,
Minor construction [1]	33, 390	33,
Grand total	479, 490	462,

[1] Total for minor construction. Amounts are not included in major command totals. All minor construction is inclu under a composite minor construction project.

FACILITY CLASSES SUMMARY

[In thousands of dollars]

Description	Request			Committee approved		
	Navy	Marine Corps	Total	Navy	Marine Corps	T
Operational	44, 879	800	45, 679	35, 449	9, 550	44,
Training	23, 050	0	23, 050	23, 050	0	23,
Maintenance and production	39, 800	15, 500	55, 300	41, 350	16, 410	57,
R.D.T. & E	8, 830	0	8, 830	8, 830	0	8,
Supply	52, 690	0	52, 690	50, 100	0	50,
Medical	11, 250	0	11, 250	5, 350	0	5,
Administrative	24, 510	5, 500	30, 010	14, 510	5, 500	20,
Housing and community facilities	42, 696	35, 100	77, 796	41, 986	39, 600	81,
B Housing	(32, 036)	(35, 100)	(67, 136)	(36, 686)	(39, 600)	(76,
C Support	(10, 660)	(0)	(10, 660)	(5, 300)	(0)	(5,
Utilities	129, 695	1, 800	131, 495	121, 745	5, 700	127,
Real estate	10, 000	0	10, 000	10, 000	0	10,
Total	387, 400	58, 700	446, 100	352, 370	76, 760	429,
Minor construction [1]			33, 390			33,
Specified			(13, 390)			(13,
Exigent			(20, 000)			(20,
Grand total			479, 490			462,

[1] Total for minor construction. Amounts are not included in major command totals. All minor construction is in under a composite minor construction project.

( ) Nonadd.

MARINE CORPS

The primary mission of the Marine Corps is to provide air ground forces for the seizure and defense of advanced naval bases the conduct of land operations incident to the prosecution of the Naval campaign.

The Marine Corps request was $59 million. This is complemented by a Navy request for $22 million in support of pollution abatement, energy conservation and safety projects at Marine Corps shore activities.

The request contains projects for replacing or modernizing barracks and dining facilities at a cost of $35 million. These projects will provide adequate living spaces for 2,803 enlisted marines and repair 10 inadequate dining facilities. Nearly 60 percent of the Marine Corps request for military construction is directed toward these goals.

The Marine Corps indicated that their next most severe facilities deficiency is the lack of adequate maintenance spaces to support the fleet marine force. To correct this problem, 26 percent of the Marine Corps program, $16 million, was assigned to construction of five maintenance projects. The remaining $9 million requested will provide a water distribution project, a joint services computer science school and automated data service facility, and two armory projects.

The committee added five projects for the Marine Corps. These projects are high priority unfunded requirements that are designed and may be placed under contract early in the fiscal year. The projects are:

	Thousands
Marine Corps Depot, Parris Island, S.C.: Barracks	
Marine Corps Logistics Base, Barstow, Calif.: Heating system	$4,500
Marine Corps Air Station, Cherry Point, N.C.:	3,900
Maintenance facility	
Aircraft parking	910
	3,060
Marine Corps Air Station, Yuma, Ariz: Ordnance handling pad	5,700

The committee was advised that the estimated cost of the solar system to complement the barracks project added by the committee for Parris Island, South Carolina, was $500,000 more than the previously estimated project cost of $4.5 million. Since sufficient flexibility exists in Section 603 to incorporate solar systems, the committee elected not to increase the original estimate, but would expect that the solar system, if found to be cost effective under the provisions of Section 804 of the fiscal year 1979 Act, would be built using the variations allowed in Section 603.

The committee approved new authority in the amount of $86,540,000 including energy conservation and pollution abatement projects.

CHIEF OF NAVAL OPERATIONS

Under the Secretary of the Navy, the Chief of Naval Operations exercises command over certain central executive organizations, assigned shore activities, and the operating forces of the Navy.

The request was $40.1 million for shore activities under the command of the Chief of Naval Operations, which includes $14.3 million for Trident facilities at the Naval Submarine Base, Bangor, Wash.; $20.3 million for the Naval Submarine Support Base, Kings Bay, Ga., and $5.5 million for dredging of the Thames River to permit safe transit of Trident submarines to sea.

Under the Trident military construction program, the Navy is deve
oping a new base at Bangor, Wash., to support the first 10 Tride
submarines. Other construction provides:

Missile flight test facilities at Cape Canaveral, Fla. These faciliti
successfully supported the Trident missile experimental pad launc
series, which have been completed.

Facilities at Cape Canaveral for the Trident system demonstratio
and shakedown operations.

Facilities at Point Mugu, Calif., for follow on missile test firing
from submarines.

Conventional ordnance facilities at Indian Island, Wash., to replac
the capability that was displaced at Bangor by Trident facilities.

As of October 1, 1979, $500 million of the $539 million appropriate
for Trident facility construction is expected to be obligated.

The committee is authorizing construction of all of the projects in
cluded in the fiscal year 1980 budget request through the use of th
cumulative, unused, prior-year authority.

In phasing the Trident facilities, the committee has made bookkeep
ing authorization adjustments in prior years in order to align th
cumulative authority with the cumulative funding. The committee wi
continue this bookkeeping procedure and intends to reduce each succes
sive annual authority by the amount which the cumulative authorit
to that point in time exceeds the cumulative funds needed to construc
authorized facilities.

Since the cumulative authority through fiscal year 1979 is $604.5 an
the cumulative appropriations are $575.4, a bookkeeping reduction o
$29 million would be possible.

Since the Navy's request is within this amount, the committee i
authorizing $14,320,000 of fiscal year 1980 construction through th
use of unfunded authority of prior years.

The following table shows the cumulative effect of this action:

TRIDENT MILITARY CONSTRUCTION[1]

[In thousands of dollars]

Fiscal years	Authorized	Appropriated	Current wor ing estim
1974	118,320	112,320	115,3
1975	100,000	100,000	102,1
1976	186,967	141,967	171,0
1977	92,278	129,328	86,7
1978	106,910	75,557	82,4
1979	0	16,255	16,8
Total	604,475	575,427	574,3

	Amou
"Excess" authority	$29,0
Less authority required for fiscal year 1974	3,0
Total available for bookkeeping adjustment	26,0

[1] Includes community impact assistance.

Section 608 of Public Law 93–552 provides authority for assistanc
to communities located near the Trident site in meeting the costs o
providing increased municipal services and facilities that are a direc

result of Trident. $39.8 million has been authorized to date for this purpose, although only $36.8 million was funded. This year's program requests an additional $10 million to provide continued support to the local and state agencies.

The total projected cost for Trident facilities is $680 million with authorization requests projected through fiscal year 1983. With the addition of $50 million, $54 million, and $22 million for family housing, planning and design and access roads; the total cost is projected to be approximately $810 million.

The committee and the Congress have supported the Navy in its program to construct a facility at Bangor, Wash., to be a homeport for the Trident submarines. The action by the committee this year in reducing the authorization for the Trident facility by $14.3 million is simply a "bookkeeping" adjustment and does not indicate that the committee has changed its position regarding the basic necessity or the timing required for the facility.

On January 26, 1978, the Secretary of the Navy announced that Kings Bay, Ga., had been selected as the relocation site for the Fleet Ballistic Missile Squadron moving from Rota, Spain, prior to July 1, 1979. The committee provided authority for initiating construction using the emergency authority of the fiscal year 1978 Military Construction Act. Included in this initial year of construction is:

Dredging to allow the required access and mooring at the Kings Bay site.

Construction of the submarine tender mooring facilities.

Construction of the floating drydock mooring facilities.

Improvements to the existing berthing to provide for lay-berths.

Utility support system required to support the waterfront operations.

Fiscal year 1978 construction required to support the initial operational capability in July 1979 is well underway.

Fiscal year 1979 military construction program at Kings Bay was authorized at $39.1 million and included the following construction:

Dredging which is an extension of the initial fiscal year 1978 dredging.

Land acquisition.

Waterfront facilities required for direct support of the refit operation.

Public works facilities.

General support storage.

Base administration facility.

Additional base support facilities.

Utility systems necessary to support the base support facilities.

In addition, Congress added 250 units of housing at $11.5 million in the fiscal year 1979 Military Construction Bill. Subsequently, the Department of Defense has authorized an additional $2.4 million for solar applications for the housing.

Most of the fiscal year 1979 program is already under construction.

The fiscal year 1980 request for Kings Bay is for $20.3 million. Included in the request are additional facilities required to support the refit operation which will be located in the base industrial area, a medical dental clinic, personnel support facilities, and utilities and roads for the personnel support and family housing areas.

Last year the Navy indicated that a fiscal year 1980 program of $28.4 million would complete the program. Additional facilities for the Rota relocation will be required beyond this year's request, since only $20.3 million was requested this year. The total projected cost is approximately $110 million.

The committee denied three projects at Kings Bay. The committee believes that nonappropriated funding should be used for the following projects:

Naval Submarine Support Base, Kings Bay, Ga.:	*Thousands*
Exchange complex	$3,600
Exchange cafeteria	1,060
Auto hobby shop	600
Total	5,360

The committee recommends the addition of one high priority project, a barracks modernization project in the amount of $1,050,000 for the Naval Support Activity, Mare Island, Calif.

The committee approved new authority for the Chief of Naval Operations in the amount of $21,520,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

The Commander in Chief, Atlantic Fleet exercises operational, organizational, planning, logistic and administrative command over air, surface, submarine and fleet marine forces and supporting shore installations. Included in the total request of $38.4 million was $4.2 million for pollution abatement projects, $2.7 million for energy conservation projects, and $1.9 million for minor construction projects.

The highlights of this request include pier extensions in the amount of $5.8 million and an enlisted barracks at an estimated cost of $7.8 million for the Naval Submarine Base, New London, Conn. The pier extension will provide improvements to three piers making them adequate for berthing five nuclear-powered attack submarines (SSN's). The barracks project will provide adequate spaces for 300 E–1 through E–4 and 300 E–5 through E–6 personnel, and relieve severe overcrowding.

For the Naval Station, Norfolk, Va., a $5.5 million project will provide a permanent berth for the AFDL–47 floating drydock. This drydock will be used to support repairs and maintenance of 26 nuclear submarines, and 15 other Norfolk-based ships. The committee denied this project on the basis that the fiscal year 1979 authority for this project could be used.

At the Naval Air Station, Brunswick, Maine, the project for approach lighting was reduced by $500,000 because the North Atlantic Treaty Organization funding will be provided for all construction but the sequenced flashing lights, which do not qualify for North Atlantic Treaty Organization funding. The balance of $150,000 was authorized under minor construction.

A high priority project that may be placed under contract early in fiscal year 1980 was added at the Naval Station, Charleston, S.C. The project in the amount of $3.6 million will provide barracks space for 300 E–1 through E–4 personnel.

The committee approved new authority in the amount of $35,820,000.

COMMANDER IN CHIEF, PACIFIC FLEET

The request for the Commander in Chief, Pacific Fleet was $48.4 million, of which $3 million is for energy conservation, and $12.5 million is for pollution abatement. Also requested was $750,000 for minor construction.

Of this total, the major projects include $8.3 million dollars at the Naval Station, Adak, Alaska, to modernize enlisted barracks for 184 personnel; $4.4 million for modernizing a marine barracks for 136 personnel, and $3.2 million dollars for a dining facility modernization project.

Two training projects requested for the Naval Air Station, Lemoore, Calif., will provide maintenance and operational training facilities for the F-18 aircraft to be introduced to this station in March 1981. These projects total $6.3 million.

At the Naval Station, San Diego, Calif., $9.2 million will provide utilities on pier 8 for cold iron berthing.

A new steam plant costing $3.2 million for the Naval Submarine Support Facility, San Diego, Calif., will provide sufficient steam capability to permit six homeported ships to go cold iron.

For this command, a high priority project that may be placed under contract early in the fiscal year was added at the Naval Air Station, Moffett Field, Calif. This project in the amount of $860,000 will provide three high explosive magazines for storing ordnance used by homeported antisubmarine warfare forces and relocate engine test facilities that are within the magazine explosive hazard arc.

The committee approved new authority in the amount of $49,260,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

The Chief of Naval Education and Training is responsible for the education and training of all naval personnel.

The request for the Chief of Naval Education and Training was $18.4 million including $1.3 million for pollution abatement and $2.8 million for energy conservation.

The significant projects are $6 million for a trainer facility to use two gas turbine ship propulsion units at the Naval Training Center, Great Lakes, Ill.; and an $8.3 million applied instruction building for propulsion and weapons training at the Fleet Training Center, San Diego, Calif.

For the trainer facility at the Naval Training Center, Great Lakes, Ill., the committee agreed to an increase in the scope of this project of 5,000 square feet. The increase in scope is needed to provide improved fire protection and an improved functional layout of administrative and training spaces. If an increase in cost is required for this project, the cost variation authority should be used.

The committee added a project for runway improvement at the Naval Air Station, Memphis, Tenn., in the amount of $3,300,000. This project, which can be placed under contract in July 1980 will provide improvements to the runway that will enhance the safety of aircraft operations.

The committee approved new authority in the amount of $21,740,000.

BUREAU OF MEDICINE AND SURGERY

The Bureau of Medicine and Surgery safeguards and promotes the health of Navy and Marine Corps personnel, their dependents, and other personnel.

The request for this command was $8 million for major construction. The projects include $2.1 million dollars for energy conservation alterations to the Naval Hospital, Camp Pendleton, Calif.; and $5.9 million for a new medical clinic to provide primary care and industrial health facilities at the Naval Station, San Diego, Calif. The committee denied the medical clinic, since it questions the requirement for this facility when a new hospital is planned for construction 10 minutes away from this facility.

The committee approved new authority in the amount of $2,050,000.

NAVAL MATERIAL COMMAND

The Naval Material Command is the single integrated material support agency for the Navy. Its mission includes the development, procurement and support of total weapons systems, depot maintenance, supply management and facilities support. Requested was $158.5 million, which includes $45.3 million for pollution abatement, and $30.5 million for energy conservation projects. Also requested, is $6.2 million for minor construction.

For shipyard modernization, $31 million was requested for eight projects at six shipyards. A brief discussion of the projects follows:

> $1.6 million dollars was requested for dredging and increased electrical capacity for acoustic tests for SSN–688 class submarines at the Puget Sound Naval Shipyard, Bremerton, Wash.
>
> $1.8 million will provide fire protection improvements to three large industrial buildings at the Long Beach Naval Shipyard, Long Beach, Calif.
>
> $6 million dollars was requested for a waterfront work facility at the Mare Island Naval Shipyard, Vallejo, Calif.
>
> For the Portsmouth Naval Shipyard, Kittery, Maine, the projects requested were $2.5 million for berthing wharf restoration to stabilize the granite block quaywall of berth 6, and $1.9 million for drydock repairs to permit safe utilization of the drydock for repairs to the current classes of submarines.
>
> $10 million was requested to provide space for consolidating engineering and management personnel, alleviating overcrowding, and to provide for an increase of approximately 450 personnel at the Norfolk Naval Shipyard, Portsmouth, Va.
>
> $7.3 million dollars was requested to consolidate and improve the riggers and laborers shop, and the temporary services shop at the Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii.

For Naval Air Rework Facilities, modernizations totaling $6.7 million will be accomplished on two jet engine test cells; one each at Alameda and North Island, Calif. A new exhaust system, augmentor and stack will be installed on the cells to reduce visible emissions, and noise levels. The new systems replace worn out and deteriorating components that limit usefulness of existing cells and cause excessive maintenance costs.

The significant projects for naval weapons stations are a torpedo shop for Mark 46 torpedoes and antisubmarine rocket maintenance operations at Charleston, S.C.; enlisted barracks and dining facility for 238 personnel at Concord, Calif.; and pier improvements and utilities at Earle, N.J.

$7.5 million was requested for a radiographic inspection building, an inert storage building and magazine required to support deployment of the Trident I missile on fleet ballistic missile submarines at the Polaris Missile Facility Atlantic, Charleston, S.C.

Other significant projects of the Chief of Naval Material are an ocean surveillance facility in the amount of $8.8 million at the Naval Ocean Systems Center, San Diego, Calif., and an automated warehouse facility at $9.1 million for the Naval Supply Center, San Diego, Calif. The ocean surveillance project provides a facility to investigate sensors, correlate and analyze multi-source data, and evaluate performance and vulnerability of ocean surveillance systems experimentally and by simulation. The automated warehouse project will provide a facility to consolidate, mechanize, and automate Navy receipt, storage, and issue functions for 54 percent of the Pacific Fleet Units homeported at San Diego, Calif. The automated facility will return its $9.1 million investment in 6 years.

At the Puget Sound Naval Shipyard, Bremerton, Wash., the dredging project was reduced by $160,000, because dredging for pier 3 was excluded from this project.

At the Mare Island Shipyard, Vallejo, Calif., the North Waterfront Work Facility project was reduced by $300,000 because some demolition planned under this project was also included in the fiscal year 1977 engineering management building project.

Two projects that were previously authorized in fiscal year 1979 were denied on the basis that fiscal year 1979 authority should be used. These projects are:

	Thousands
Naval Weapons Station, Earle, N.J.: Pier improvements	7,100
Norfolk Naval Shipyard, Portsmouth, Va.: Warehouse renovation	3,450

One high priority project that may be placed under contract early in the fiscal year was added for the Naval Ordnance Station, Louisville, Ky. This project in the amount of $1,850,000 will provide a paint spray facility to improve safety and working conditions for personnel working on gun mounts and large weapons.

The committee was requested to consider an addition to the bill of the following three projects for the Naval Shipyard, Charleston, South Carolina:

Waterfront Support Facility	$720,000
Forces Afloat Facility	1,450,000
Pipe Shop (Special Systems and Equipment)	2,000,000
Total	4,170,000

The first two projects listed were included in the scope of a fiscal year 1979 pier modernization project authorized at $11,300,000. However, when bids were received for this project, the cost for accomplishing the full scope would have been $14,400,000. Therefore, the Navy elected to defer the first two projects and awarded a contract in April that has a current working estimate of $12,300,000. With respect to the pipe shop project, bids for this project are scheduled for July. The Navy's current estimate indicates that $2,000,000 in special systems and equipment may have to be deleted from this project to keep it within the authorized total. It is understood that there are additive bid items, so that a bid will be received on the full scope of the project.

The reason the Navy gives for reducing the scope on these projects is that this action is required to manage within available appropriations. In this regard, there was a third project, road and parking improvements in the amount of $1,700,000, authorized in fiscal year 1979 for the shipyard. Bids for this project are scheduled for August. Since authority is available under the cost variations provisions of the fiscal year 1979 Military Construction Act, Pub. Law 95–356, the committee did not add authority for these projects. The committee believes that the Navy should proceed with the full scope of these shipyard modernization projects and defer other lower priority projects for the funding needed.

The committee approved new authority in the amount of $149,305,000.

Naval Telecommunications Command

The Naval Telecommunications Command provides communications by satellite and radio for administrative functions and command and control of Navy ships. Services include point-to-point communication ashore as well as ship-to-shore circuits for Navy and Department of Defense systems.

One high priority project was added for the Naval Communication Unit, Cutler, Maine. This project in the amount of $950,000 provides safety improvements to antenna towers.

The committee approved new authority in the amount of $950,000.

Naval Security Group Command

The Naval Security Group Command is responsible for signal intelligence, protection of United States Navy signals and other exploitable emissions, special communications systems, technical research and development for the creation of new systems and equipment, and navy-wide support of the Armed Forces Courier Service. The request for this command was $6.5 million for major construction and $600,000 for minor construction. The major projects are located at the naval security group activity, Adak, Alaska, and will provide an expansion to the operations building to house operations which are classified, as well as modernization of an enlisted barracks for 141 personnel.

The new authority approved is $6,505,000.

Outside the United States

For installations located outside the continental United States, the Navy requested $59,340,000. The committee approved $55,440,000.

Marine Corps

The request was $11.7 million for a project for sanitary sewage collection and treatment, and a project for dining facilities modernization at the Marine Corps Base Camp Smedley D. Butler, Okinawa, Japan.

The committee approved new authority in the amount of $11,700,000.

Commander in Chief, Atlantic Fleet

For the Commander in Chief, Atlantic Fleet, the request was $19.8 million which includes $1.5 million for water pollution abatement and

$1.3 million for energy conservation. At the Naval Station, Keflavik, Iceland, $16.2 million is requested for a geothermal heating project, to fund the connection charge to the local regional heating corporation for the development of off-base well capacity and installation of heating mains on-base. Initial hook-ups of a portion of the base buildings are a part of this project.

The committee approved new authority in the amount of $19,810,000.

COMMANDER IN CHIEF, PACIFIC FLEET

For the Commander in Chief, Pacific Fleet, Outside the United States, $3.9 million was requested to provide a sanitary sewage collection and treatment facility for the Naval Air Facility, Midway Island.

The committee denied authority for sanitary sewage collection and treatment facility project for the Naval Air Facility, Midway Island.

The concentration of wastewater pollutants at such a remote site as Midway should not create a public health and environment problem that warrants the expenditure of $3.9 million for secondary treatment of wastewater discharges. The Navy should reexamine the requirement for this facility.

No new authority was provided for the Commander in Chief, Pacific Fleet, Outside the United States.

COMMANDER IN CHIEF, NAVAL FORCES EUROPE

The Commander in Chief, Naval Forces, Europe, exercises operational organizational planning, logistic and administrative command over air, surface, submarine and fleet marine forces and supporting shore installations.

The request for this command was $16.3 million. The significant projects are $6.6 million to provide commercial power to the Naval Station, Rota, Spain, and $9.7 million for the Naval Air Facility, Sigonella, Sicily, Italy, for a general warehouse, administrative build- ng and data center, air passenger terminal expansion, and aircraft aintenance hangar addition.

The committee approved new authority in the amount of $16,300,000.

CHIEF OF NAVAL MATERIAL

For the Chief of Naval Material, the request was $3.7 million for e pollution abatement project, $1.6 million, and two energy conser- tion projects, $2.1 million.

The committee approved new authority in the amount of $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

For the Naval Telecommunications Command, $2.5 million was re- ested for one major and $0.3 million for one minor construction oject. At the Naval Communication Station Harold E. Holt, Ex- uth, Australia, $2.5 million will construct a satellite communications up terminal to provide adequate satellite communications for the t and defense satellite systems.

he committee approved new authority in the amount of $2.5 lion.

NAVAL SECURITY GROUP COMMAND

The request was $1,400,000 for ocean surveillance building addition at the Naval Security Group Activity, Edzell, Scotland.

The requested amount was approved.

TITLE II—SUMMARY OF AUTHORIZATION ACTIONS

A summary of actions taken on the title II request of the Navy is tabulated below by project:

Installation and project	*Thousands*
New authorization requested	$479, 490
Marine Corps:	
Barstow, Calif., Marine Corps Logistics Base: Heating system	+3, 900
Cherry Point, N.C., Marine Corps Air Station:	
Maintenance facility	+910
Aircraft parking	+3, 050
Parris Island, S.C. Marine Corps Recruit Depot: Barracks	+4, 500
Yuma, Ariz. Marine Corps Air Station: Ordnance handling pad	+5, 700
Chief of Naval Operations:	
Bangor, Wash., Naval Submarine Base: Trident community impact assistance	−10, 000
Bangor, Wash., Naval Submarine Base: Utilities and site improvements	−4, 060
Bangor, Wash., Naval Submarine Base: Helipad	−270
Kings Bay, Ga., Naval Submarine Support Base:	
Exchange complex	−3, 650
Exchange cafeteria	−1, 050
Auto hobby shop	−660
Mare Island, Calif., Naval Support Activity: Barracks modernization	+1, 050
Commander in Chief, Atlantic Fleet:	
Brunswick, Maine, Naval Air Station: Approach lighting	−500
Charleston, S.C., Naval Station: Barracks	+3, 600
Norfolk, Va., Naval Station: Mooring platform	−5, 500
Commander in Chief, Pacific Fleet:	
Moffett Field, Calif., Naval Air Station: High explosive magazines	+860
Chief of Naval Education and Training:	
Memphis, Tenn., Naval Air Station: Runway Improvement	+3, 300
Bureau of Medicine and Surgery:	
San Diego, Calif., Naval Regional Medical Center: Medical clinic	−5, 900
Chief of Naval Material Command:	
Bremerton, Wash., Puget Sound Naval Shipyard: Dredging	−160
Earle, N.J., Naval Weapons Station: Pier improvements	−7, 100
Louisville, Ky., Naval Ordnance Station: Paint spray facility	+1, 850
Portsmouth, Va., Norfolk Naval Shipyard: Warehouse renovation (St. Juliens Creek)	−3, 450
Vallejo, Calif., Mare Island Naval Shipyard: North waterfront work facility	−300
Naval Telecommunications Command:	
Cutler, Maine, Naval Communications Unit: Antenna array safety improvements	+950
Net change, inside the United States	−12, 920
Commander in Chief, Pacific Fleet:	
Midway Island, Naval Air Facility: Sanitary Sewage Collection and Treatment	−3, 900
Net change outside the United States	−3, 900
Net change, total major construction	−16, 820
Minor construction:	
Dam Neck, Va., Fleet Combat Training Center, Atlantic: Operational trainer	−460
Net change, minor construction	−460
Net change, major and minor construction	−17, 280
Net authorization granted	462, 210

TITLE III—AIR FORCE

The Air Force requested $492,700,000 and the committee approved $480,050,000 as follows:

	Request	Authorized
Inside the United States	337, 510, 000	370, 810, 000
Outside the United States	126, 230, 000	79, 930, 000
Minor construction	28, 960, 000	29, 310, 000
Total request	492, 700, 000	480, 050, 000

SUMMARY OF PROGRAM

Air Force witnesses testified that the Air Force program consisted primarily of projects to support the force and development goals presented to the Congress in the Air Force Secretary's and Chief of Staff's posture statements. They placed emphasis on several items: $60.8 million for readiness in Europe and the Pacific, which includes $12.5 million for aircraft shelters in the Pacific; $5.3 million for chemical warfare protection facilities; $13.0 million for essential aircraft operational facilities at collocated operating bases and $12 million for munitions storage in Europe; $60.9 million for new missions and mission realignments; $14.2 million for the air-launch cruise missile; $5.4 million for the M–X; $31.0 million for medical facilities; $19.6 million for flight simulator facilities; $78.2 million for facilities to support the space transportation system or space shuttle; $23.8 million for energy conservation; $16.2 million for pollution abatement; $66.7 million for unaccompanied personnel housing improvement and $2 million for air installations compatible use zones (AICUZ). Also included in the Air Force request is $29 million for minor construction at various locations worldwide under the authority of 10 U.S.C. 2674. With this amount, the total Air Force request in fiscal year 1980 is $492,700,000.

The committee gave careful consideration to all projects and the following tables summarize the authorization requested and approved by major command and facility classes.

MAJOR COMMAND SUMMARY

[In thousands of dollars]

	Air Force request	Committee approved
Air Force Logistics Command	37, 700	56, 050
Air Force Systems Command	38, 350	38, 350
Air Training Command	15, 940	15, 940
Alaskan Air Command	13, 400	13, 400
Military Airlift Command	24, 760	32, 130
Strategic Air Command	138, 140	138, 150
Tactical Air Command	67, 270	74, 840
Air National Guard	1, 950	1, 950
Total, inside the United States	337, 510	370, 810
Air Defense Command	3, 150	3, 150
Air Force Systems Command	2, 900	2, 900
Military Airlift Command	12, 250	0
Pacific Air Force	25, 700	25, 700
Tactical Air Command	2, 700	4, 500
U.S. Air Forces in Europe	79, 530	43, 680
Total, outside the United States	126, 230	79, 930
Minor construction	28, 960	29, 310
Total, title III	492, 700	480, 050

FACILITY CLASS SUMMARY

[In thousands of dollars]

Description	Air Force request	Committee approved
Operational	133, 850	107, 900
Training	20, 020	20, 020
Maintenance production	42, 770	51, 340
R.D.T. & E.	103, 100	103, 100
Supply	16, 540	4, 540
Medical	30, 950	28, 300
Administrative	7, 350	6, 250
Personnel housing/community support	77, 750	78, 100
Personnel housing	(66, 650)	(66, 650)
Community support	(11, 100)	(11, 450)
Utilities	3, 530	7, 030
Pollution abatement	16, 230	16, 230
Air	(690)	(690)
Water	(15, 540)	(15, 540)
Energy	23, 810	40, 440
Real estate	2, 800	2, 800
Minor construction	14, 000	14, 000
Total	492, 700	480, 050

AEROSPACE DEFENSE COMMAND

[Inside the United States]

The primary mission of the Aerospace Defense Command (ADCOM) is to discharge Air Force responsibilities for the defense of the United States against aerospace attack. This program requests $510,000 for two projects in support of ADCOM responsibilities at Tyndall Air Force Base, Fla. and El Paso Radar Site, Tex.

The committee approved the program as submitted.

The mission of the Air Force Logistics Command (AFLC) is to provide an adequate and efficient system of procurement, production, surveillance, maintenance and supply for the United States Air Force and train specialized units for accomplishment of logistics functions in overseas areas and theaters. The program contains a request for $38,370,000 at seven installations in the Air Force Logistics Command.

Projects at Hill AFB, Utah include $3,000,000 for the construction of a new facility for a small aircraft maintenance dock and alteration of existing space for a squadron flight operations for a Tactical Air Command (TAC) tenant unit and an addition to and alteration of the unaccompanied enlisted personnel housing facility for $740,000 to provide housing for personnel assigned to the Hill Air Force Range.

At Kelly AFB, Tex., a project for $2,600,000 is included to construct an addition to the cryptologic depot storage value for the Air Force Security Service (AFSS), a tenant on this base. Also included are an energy conservation item for $650,000 and a project to alter and upgrade the electrical distribution system for $3,100,000.

At McClellan AFB, Calif., an energy conservation project is included for $210,000.

At Newark AFS, Ohio, an energy conservation project is included for $860,000.

At Robins AFB, Georgia, one project was requested for energy conservation for $1,450,000.

At Tinker AFB, Okla., the construction of an addition to and alteration of the depot logistics air freight processing facility for $4,500,000 is included together with a project for an industrial waste treatment and disposal facility for $7,600,000. A minor construction project for $460,000 is also included to convert existing space into a nondestructive inspection shop.

The last installation in the Air Force Logistics Command is Wright-Patterson AFB, Ohio. Projects for this base include a flight control development laboratory for $9,800,000 to satisfy an Air Force Systems Command (AFSC) tenant requirement, an alteration project to upgrade existing unaccompanied enlisted personnel housing for $2,300,000 and alteration of existing space for a major command headquarters facility for $1,100,000 to accommodate the foreign military sales administrative functions.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Robins AFB, Ga.:	
Weapons system component engineering facility	+$5,800
Personnel services support center	+3,500
Wright-Patterson, AFB, Ohio:	
Photo interpretation laboratory	+2,100
Energy conservation investment program	+1,300
Alter command headquarters	−1,100
Tinker AFB, Okla.: Energy conservation investment program	+3,500
Hill AFB, Utah: Energy conservation investment program	+3,250
Total	+$18,350

The committee denied the project to alter the command headquarters for foreign military sales (FMS) administrative space because there is an overall reduction occurring in the FMS program.

The committee recognized the importance of the other projects, especially those intended to conserve energy. These additive projects could be put under contract during fiscal year 1980.

The committee approved new authority in the amount of $56,720,000.

AIR FORCE SYSTEMS COMMAND

The mission of the Air Force Systems Command (AFSC) is advance aerospace technology, adapt it into operational aerosp systems, and acquire qualitatively superior aerospace systems material needed to accomplish the Air Force mission.

Construction projects totalling $39,240,000 were requested for t command by the Air Force. The program includes $6,500,000 Arnold Engineering Development Center, Tenn., for construction M-X missile test facilities and a Systems Generated Electromagn Pulse Test Facility; $410,000 at Brooks AFB, Tex., for energy c servation; $5,350,000 at Eglin AFB, Fla., for unaccompanied enlis personnel housing and energy conservation; $8,600,000 at Hansc AFB, Mass., for a systems management/engineering facili $12,400,000 at Johnson Space Center (NASA), Tex., for STS miss operations center facilities; $3,650,000 at Maui Optical Site, Haw for a spacetrack observation facility: $230,000 at Patrick AFB, F for aircraft instrument landing/navigation facilities; and $2,100, at White Sands Range, N. Mex., for a spacetrack observation facil

The committee approved the program as submitted.

AIR TRAINING COMMAND

The mission of the Air Training Command (ATC) is to provide ing training leading to an aeronautical rating, aircrew traini basic and advanced technical training leading to an Air Force s cialty, basic military training, mobile training, and other train as may be directed by the U.S. Air Force Chief of Staff.

Construction projects totalling $18,670,000 are requested by the Force for ATC. An Aircraft Instrument Landing and Navigat Facility (ILS) is requested for Columbus AFB, Miss., for $270, Energy Conservation Investment Program (ECIP) projects at K ler AFB, Miss., will cost $840,000. At Lackland AFB, Tex., $6,180 is required for unaccompanied enlisted personnel housing, ECI Security Training Facility, and alteration of munition storage cilities. Unaccompanied enlisted personnel housing, a dining hall, ILS are desired at Laughlin AFB, Tex., for $4,810,000. At Mat AFB, Calif., ECIP and addition to fire station is requested $2,110,000. ILS and ECIP is programed at Randolph AFB, Tex., $470,000. At Reese AFB, Tex., an ILS is required at $280,000. gramed for Sheppard AFB, Tex., is $2,050,000 for a Radar Appr Control Center, and ECIP. The program also includes runway li ing at Vance AFB, Okla., for $1,500,000 and an ILS at Willi AFB, Ariz., for $160,000.

The committee approved the program as submitted.

ALASKAN AIR COMMAND

The Alaskan Air Command (AAC) provides combat ready fo defense weapons systems, aircraft control and warning elements, air defense forces within Alaska for employment under the op tional control of Command, Alaska NORAD/CONRAD regio also provides logistical support for the Strategic Air Command, Military Airlift Command, the Command of the Alaskan Sea Frontier and the United States Army. This program requests $13,400,000 for three projects at Elmendorf AFB, Alaska: $8,600,000 is included for construction of an addition to and alteration of a regional operations control center; $3,500,000 is included to alter unaccompanied enlisted personnel housing; and $1,300,000 is included for construction of an addition to and alteration of a fire station.

The committee approved the program as submitted.

MILITARY AIRLIFT COMMAND

The mission of the Military Airlift Command (MAC) is to maintain the military airlift system in the constant state of readiness necessary for performance of all airlift tasks and emergency operations assigned by the Joint Chiefs of Staff. MAC supervises and operates the Air Weather Service, the Aerospace Audio Visual Service, the Air Rescue and Recovery Service, Aeromedical Evacuation System, and Military Airlift. MAC provides administrative and logistical support for units assigned directly to Headquarters U.S. Air Force, for those Air Force units stationed within the Washington area, where inherent organizational structure does not permit other support, and such other missions as may be directed by the Chief of Staff, United States Air Force.

Construction projects totalling $26,380,000 are requested for this command by the Air Force. The program includes $310,000 at Altus AFB, Okla., for an energy conservation project; $1,190,000 at Andrews AFB, Md., for energy conservation; $200,000 at Bolling AFB, District of Columbia, for an energy conservation project; $1,500,000 at Kirtland AFB, N. Mex., to add to and alter a flight simulator training facility; $510,000 at Little Rock AFB, Ark., to add to and alter a fire station; $4,340,000 at McChord, AFB, Wash., for a JSS Regional Operating Control Center, add to and alter a fire station and energy conservation; $470,000 at McGuire AFB, N.J., to add to a telecon center; $140,000 at Norton AFB, Calif., for an industrial waste treatment disposal facility; $1,100,000 at Richards-Gebaur AFB, Mo., for a regional sewage connection; $10,060,000 at Scott AFB, Ill., for a precision measurement equipment laboratory, a data processing facility and an energy conservation project; and $6,560,000 at Travis AFB, Calif., to alter unaccompanied enlisted personnel housing and add to and alter a fire station.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Pope AFB, N.C.: Addition to hydrant refueling system	+$5,400
Kirtland AFB, N. Mex.:	
Energy conservation program	+670
Fuel system maintenance dock	+1,300
Total	+7,370

The committee recognized the importance of these projects, especially the energy conservation project at Kirtland AFB, and noted that they could be put under contract in fiscal year 1980.

The committee approved new authority in the amount of $33,750,000.

PACIFIC AIR FORCES

[Inside the United States]

The mission of the Pacific Air Forces is to conduct, control and coordinate offensive and defensive air operations. The forces provide administrative and logistic support for Air Force units in the Pacific geographical area. The requested program for the Pacific Air Forces, inside the United States, is $250,000 for a radome tower foundation at Kokee Air Station, Hawaii.

The committee approved the program as submitted.

STRATEGIC AIR COMMAND

[Inside the United States]

The mission of the Strategic Air Command (SAC) is to organize train, equip, administer, prepare and maintain a bomber and tanker force in a state of readiness capable of conducting intensive and conclusive world-wide aerial bombardment against enemies of the Unite States.

This program requests $141,550,000 for construction of facilities a 17 bases. At Beale AFB, Calif., $120,000 is being requested for a mino construction project to provide an addition to the fire station to hous the P-15 crash/rescue vehicle. Two minor construction projects ar requested at Carswell AFB, Tex., to include an addition to the fir station for $280,000 and an energy conservation project for $260,00 Major construction requested at Castle AFB, Calif., includes a dormitory modernization project for $3,850,000 and a new gymnasium fo $1,450,000; and a minor construction project for $360,000 to add t and alter the fire station.

Construction requested for Ellsworth AFB, S. Dak., includes upgrading airfield pavement at $2,550,000, an addition/alteration proje to improve the composite medical facility for $11,800,000 and a sewag treatment and disposal facility for $2,650,000. At Fairchild AF Wash., a $150,000 minor construction project for energy conservatio is requested. A dormitory upgrade program for $4,900,000 is requeste for Grand Forks AFB, N. Dak.

This program requests $5,300,000 for a regional operations contr center and $1,850,000 for a B-52 flight simulator training facility Griffiss AFB, N.Y. At Grissom AFB, Ind., a $4,700,000 airfield pav ment upgrade project and a $160,000 minor construction project install an aircraft instrument landing and navigational facility requested. Projects requested at K. I. Sawyer AFB, Mich., consists of $5,200,000 dormitory upgrade project and a $110,000 minor constru tion energy conservation project. A $330,000 energy conservatio project is requested at Malmstrom AFB, Mont.

Construction requested for March AFB, Calif., consists of $5,900,000 regional operations control center, a $230,000 additio alteration to the fire station, a $330,000 energy conservation proje and a $700,000 land fee purchase action. A dormitory upgrade proje for $5,100,000 and an energy conservation project for $250,000 is quested for Minot AFB, N. Dak. The program requested for Offu AFB, Nebr. consists of a $2,100,000 addition and alteration to a co munications transmitter receiver facility, a land fee purchase action for $90,000 and a minor construction energy conservation for $140,000. A $130,000 energy conservation project is also requested for Plattsburgh, AFB, N.Y. Construction at Vandenberg AFB, Calif., includes four projects to support the space transportation system, support facilities for $6,100,000, launch pad complex thrust augmentation for $13,500,000, orbiter processing facilities for $43,000,000 and solid rocket booster facilities for $3,200,000. This program requests $14,200,000 for air launched cruise missile facilities at various locations, an aircraft instrument landing and navigational facility at Whiteman AFB, Mo., for $150,000 and finally, an energy conservation project at Wurtsmith AFB, Mich., for $410,000.

In summary, the proposed Air Force construction program for the Strategic Air Command (inside the United States) totals $138,140,000 for major construction and $3,410,000 for minor construction.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Castle AFB, Calif.: Gymnasium	−$1,450
Griffiss AFB, N.Y.: Energy conservation investment program	+930
Ellsworth AFB, S. Dak.: Energy conservation investment program	+530
Total	+10

The gymnasium at Castle AFB was deferred because the committee feels that the Air Force should investigate the possibility of using nonappropriated funds for this type of facility to be consistent with procedures used by other services. The other projects were added because of their importance to the total energy conservation effort of the Nation and the fact that they could be put under contract during fiscal year 1980.

The committee was also advised of a very serious situation that has developed in the water supply system at Pease Air Force Base, N.H. According to information made available to the committee, significant levels of a potentially harmful chemical, tri-chloro ethylene, have been discovered in the water supply. Correction of this condition by increased treatment facilities is estimated to cost $880,000. The committee felt that authorization in fiscal year 1980 would not expedite a solution to this problem and considers the use of Section 302 Emergency Construction authority in the fiscal year 1979 Act, to be appropriate, if the information provided the committee can be confirmed.

The committee approved new authority for fiscal year 1980 in the amount of $141,560,000.

Tactical Air Command

[Inside the United States]

The mission of Tactical Air Command (TAC) is to organize, equip, train, administer and operate the assigned or attached forces and participate in prompt and sustained tactical air operations. The commander, Tactical Air Command, is charged with two missions. He is a major air commander under the Chief of Staff, U.S. Air Force, and concurrently is a component commander under the Commander-in-Chief, U.S. Readiness Command (REDCOM).

The program includes $8,290,000 for Bergstrom AFB, Tex., for a squadron flight operations facility, flight simulator and training building, aircraft maintenance and support facilities, a small aircraft maintenance dock, add to and alter avionics maintenance shops, and a minor construction (specified) project as part of the energy conservation investment program (ECIP); $5,750,000 for Cannon AFB, N. Mex., to alter aircraft maintenance facilities, provide flight simulator training, munitions maintenance and storage facilities and alter unaccompanied enlisted personnel housing; $5,540,000 for Davis-Monthan AFB, Ariz., to add to a flight simulator training facility, add to and alter a dining hall, provide an ECIP project and a project in the air pollution abatement program for paved roads (dust control); $6,560,000 at England AFB, La., for aircraft munitions loading and storage, flight operations and training facilities, various aircraft maintenance facilities, add to and alter an electronic countermeasure (ECM) complex, an aircraft maintenance control facility and a minor construction (specified) ECIP project; $18,350,000 at George AFB, Calif., to alter an aircraft fuel system maintenance facility, add to and alter the composite medical facility and provide an ECIP project; $2,000,000 for the alteration of unaccompanied enlisted personnel housing at Holloman AFB, N. Mex., $8,370,000 for Homestead AFB, Fla., for flight simulator training and various aircraft maintenance facilities, a supply center for maintenance support and a water pollution abatement project to connect to county sewer system.

Also, $110,000 for a minor construction (specified) to provide an instrument landing system at Luke AFB, Ariz.; $2,350,000 for MacDill AFB, Fla., for aircraft maintenance and training and aircraft fuel system maintenance facilities; $4,450,000 at Moody AFB, Ga., add to the aircraft operational parking apron, provide a small aircraft maintenance facility, an ECIP project, and a minor construction (specified) project for two instrument landing systems; $350,000 for Mountain Home AFB, Idaho, to purchase land for the Saylor Creek Range and a minor construction (specified) ECIP project; $310,000 for an ECIP project in the minor construction (specified) program for Myrtle Beach AFB, S.C., $4,100,000 for Nellis AFB, Nev., to add to and alter various aircraft maintenance facilities, alter aircraft maintenance facilities, provide avionics maintenance facilities and an ECIP project in the minor construction (specified) program; $250,000 for a minor construction (specified) ECIP project at Seymour-Johnson AFB, N.C., and $2,950,000 for Shaw AFB, S.C., for munitions maintenance and storage facilities, weapons release and alter avionics facilities and a minor construction (specified) ECIP project.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Holloman AFB, N. Mex.: Energy conservation investment program	+$60
Moody AFB, Ga.: Small aircraft maintenance facility	−2,15
Seymour-Johnson AFB, N.C.: Small aircraft maintenance dock	+2,65
Myrtle Beach AFB, S.C.: Add to and alter fuel system maintenance dock	+97
Homestead AFB, Fla.: Energy conservation investment program	+1,50
MacDill AFB, Fla.: Energy conservation investment program	+77
Cannon AFB, N. Mex.: Energy conservation investment program	+73
Langley AFB, Va.: Energy conservation investment program	+2,50
Total	+7,57

The committee agrees that the requirement to construct a new small aircraft maintenance dock at Moody AFB, Ga., previously authorized in the fiscal year 1978 Military Construction Authorization Act (Public Law 95-82, 91 Stat. 367) remains valid. The committee therefore directs the Air Force to use the previous authorization for $1,928,000 contained in Public Law 95-82 and, if necessary, the cost variation authority contained in Section 603 of the annual authorization Act. An extension of the fiscal year 1978 authorization to October 1, 1981 is also included in section 605, Repeal of Prior Year Authorizations: Exceptions, of this bill.

The committee recognized the importance of the energy conservation projects and their contribution to the overall energy conservation goals of the Nation. These projects can be put under contract during fiscal year 1980.

The committee approved new authority in the amount of $77,300,000 in section 301 of title III. The committee also recognized the importance of an energy conservation investment project at Luke AFB, Ariz. for $350,000. This project is included under section 303, minor construction, and results in a new authority in the amount of $29,310,000.

Air National Guard

The program requests $1,950,000 for one project at Buckley Air National Guard Base, Colo., for necessary expanded clear zones as part of the air installation compatible use zones (AICUZ) program within the continental United States.

The committee approved the program as submitted.

Aerospace Defense Command

[Outside the United States]

The Aerospace Defense Command's primary mission is to discharge Air Force responsibilities for the defense of the United States against an aerospace attack. Construction requested totals $3,150,000 for one project at Thule AB, Greenland.

The committee approved the program as submitted.

Military Airlift Command

[Outside the United States]

The mission of the Military Airlift Command (MAC) is to maintain the military airlift system in the constant state of readiness necessary for performance of all airlift tasks and emergency operations assigned by the Joint Chiefs of Staff. MAC supervises and operates the Air Weather Service, the Air Rescue and Recovery Service, Aeromedical Evacuation System, and Military Airlift. The only major MAC base in Europe, Rhein-Main Air Base is the principle embarkation/debarkation point for personnel arriving/departing USAFE.

Construction projects totalling $12,760,000 are requested for this command by the Air Force. The program includes $510,000 at Lajes AB, the Azores, Portugal, for aircraft instrument landing/navigation facilities; $7,300,000 at Rhein-Main AB, Germany, to add to and alter an air freight terminal; and $4,950,000 at Roberts International Airport, Liberia, for various operational facilities.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Rhein-Main AB, Germany: Add/alter air freight terminal	−$7,300
Roberts International Airport, Liberia: Various operational facilities	−4,950
Total	−12,250

The Air Freight Terminal was denied and the committee directed the Air Force to use the previous authorization for $6,550,000 contained in the fiscal year 1979 Military Construction Authorization Act (Public Law 95–356), and, if necessary, the cost variation authority contained in section 603 of the annual authorization act.

The operational facilities at Roberts IAP were denied by committee because of the uncertainty of the current negotiations on base rights with Liberia. In addition, design of the project has not started and the committee questions whether funds could be used in fiscal year 1980.

The committee approved new authority in the amount of $510,000.

PACIFIC AIR FORCES

[Outside the United States]

The mission of the Pacific Air Forces is to conduct, control and coordinate offensive and defensive air operations. The forces provide administrative and logistical support for Air Force units in the Pacifi geographical area.

Construction programs totalling $26,760,000 are requested for thi command by the Air Force. The program includes $410,000 at Clar AB, the Philippines, to add to and alter a flight simulator trainin facility; $1,100,000 at Kadena AB, Japan, for a squadron flight operations facility; $4,010,000 at Kunsan AB, Korea, to upgrade taxiway and to alter aircraft shelters; $20,730,000 at Osan AB, Korea, for quick-turn facility, aircraft arm/disarm pads, aircraft shelters, a fligh simulator training facility, an aircraft instrument landing/navigatio facility and an aircraft security system; and $510,000 at Taegu A Palgongsan Korea, for unaccompanied officer personnel housing.

The committee approved the program as submitted.

STRATEGIC AIR COMMAND

[Outside the United States]

The mission of the Strategic Air Command (SAC) is to organi train, equip, administer, prepare and maintain a bomber and tank force in a state of readiness capable of conducting intensive and co clusive world-wide aerial bombardment against enemies of the Unit States. Construction requested totals $440,000 for a project at Anders Air Force Base, Guam, to provide a 2,960 SF addition to the Fire S tion to house the new P–15 crash/rescue vehicle.

The committee approved the program as submitted.

TACTICAL AIR COMMAND

[Outside the United States]

The mission of Tactical Air Command (TAC) is to organize, equip, train, administer and operate the assigned or attached forces and participate in prompt and sustained tactical air operations. The Commander, Tactical Air Command, is charged with two missions. He is a major air commander under the Chief of Staff, U.S. Air Force, and concurrently is a component commander under the Commander-in-Chief, U.S. Readiness Command (REDCOM). In addition, TAC is tasked with a share of the security and defense of the Panama Canal and has two installations, Howard and Albrook AFBs, located in Panama for this purpose.

The TAC overseas program includes $2,700,000 for Howard AFB, Panama, for the relocation of a transmitter site and to add to and alter recreation facilities.

The adjustments made by the committee follow:

Installation and project

	Thousands
Howard AFB, Canal Zone:	
Security Facilities	**+$3,500**
Recreational Facilities	**−1,700**
Total	**+1,800**

The committee denied the recreational facilities and suggests that the Air Force fund these requirements with nonappropriated funds. The committee recognized the importance of the security facilities project, which is required to implement the Panama Canal treaties. This latter project was included in the amended fiscal year 1979 supplemental request.

The committee approved new authority in the amount of $4,500,000.

U.S. AIR FORCES IN EUROPE

The mission of the U.S. Air Forces in Europe (USAFE) is to conduct, control and coordinate offensive and defensive air operations in accordance with tasks assigned by the Commander-in-Chief U.S. European Command. It also fulfills responsibilities assigned by the Joint Chiefs of Staff in areas not included in either the NATO or U.S. Commander-in-Chief Europe area of responsibility. The program contains a request for $79,940,000 for facilities in support of USAFE missions at various locations.

Included in this program is $6,450,000 at six bases for alterations to unaccompanied enlisted housing; $1,110,000 at RAF Alconbury, U.K., for a refueling vehicle maintenance and security police operations facility; $4,300,000 at RAF Bentwaters, U.K., for an A–10 aircraft flight simulator and arm/disarm pads; $7,600,000 at RAF Fairford, U.K., for unaccompanied officer and enlisted housing; $5,250,000 at Hahn AB, Germany, for a flight simulator and various aircraft maintenance facilities; $770,000 at RAF Lakenheath, U.K. for a flight simulator addition; $2,650,000 at Landstuhl, Germany, for alterations and additions to the hospital for an aeromedical staging facility; $1,000,000 at RAF Mildenhall, U.K., for a fire station addition; $1,440,000 at Ramstein AB, Germany, to add to and alter the chapel and support equipment shop; $6,500,000 at Sembach AB, Germany, for arm/disarm pads and a combat operations center addition; $540,000 at Torrejon AB, Spain, for a fire station addition; $4,700,000 at RAF Woodbridge, U.K. for a dining hall and various A–10 aircraft support facilities; $580,000 at Zaragoza AB, Spain, for a fire station addition; $1,050,000 at three collocated operating bases in Germany for power check pads; $2,800,000 for a special operations facility at a classified location in Europe; and $33,200,000 at various locations in Europe for facilities to support collocated operating bases, hardened operations, chemical warfare protection and munitions storage.

The adjustments made by the committee follow:

Installation and project	*Thousands*
Landstuhl, Germany: Aeromedica lstaging facility	−$2,650
Various locations:	
Hardened operational facilities	−2,900
Collocated operating bases	−13,000
Chemical warfare protection	−5,300
Ammunition storage	−12,000
Total	−35,850

The committee agreed that the requirement for the Aeromedical staging facility is valid, and directed that the requirement be accommodated in the Army project for additions and alterations to the hospital at Landstuhl, authorized in Public Law 95–356.

The committee denied the readiness projects at various locations because, by definition, all are NATO infrastructure projects and should be funded through the infrastructure program.

The committee approved new authority in the amount of $44,090,000.

TITLE III—SUMMARY OF AUTHORIZATIONS ACTIONS

A summary of actions taken on the Title III request of the Air Force is tabulated by project as follows:

Installation and project	*Thousands*
Total of request (Title III)	$492, 700
Air Force Logistics Command:	
Hill AFB, Utah:	
Energy conservation investment program (ECIP)	+3, 250
Robins AFB, Ga.:	
Weapons engineering facility	+5, 800
Personnel service center	+3, 500
Tinker AFB, Okla.:	
ECIP	+3, 500
Wright-Patterson AFB, Ohio:	
ECIP	+1, 300
Alter major command headquarters facility	−1, 100
Photo interpretation laboratory	+2, 100
Military Airlift Command:	
Kirtland AFB, N. Mex.:	
ECIP	+670
Aircraft maintenance dock	+1, 300
Pope AFB, N.C.:	
Addition to refueling system	+5, 400
Strategic Air Command:	
Castle AFB, Calif.:	
Gymnasium	−1, 450
Ellsworth AFB, S. Dak.:	
ECIP	+530
Griffiss AFB, N.Y.:	
ECIP	+930
Tactical Air Command:	
Cannon AFB, N. Mex.: ECIP	+730
Holloman AFB, N. Mex.: ECIP	+600
Homestead AFB, Fla.: ECIP	+1, 500
Langley AFB, Va.: ECIP	+2, 500
Luke AFB, Ariz.: ECIP	+350
MacDill AFB, Fla.: ECIP	+770
Moody AFB, Ga.: Aircraft maintenance facility	−2, 150
Myrtle Beach AFB, S.C.: Aircraft maintenance dock	+970
Seymour-Johnson AFB, N.C.: Aircraft maintenance dock	+2, 650
Military Airlift Command (Outside the U.S.):	
Rhein Main AB, Germany: Add/alter air freight terminal	−7, 300
Roberts IAP, Liberia: Various operational facilities	−4, 950
Tactical Air Command (Outside the U.S.):	
Howard AFB, Canal Zone:	
Security facilities	+3, 500
Recreational facilities	−1, 700
U.S. Air Forces in Europe:	
Landstuhl, Germany: Aeromedical staging facility	−2, 650
Various locations:	
Hardened operational facilities	−2, 900
Collocated operating bases	−13, 000
Chemical warfare protection	−5, 300
Ammunition storage	−12, 000
Decrease to title III	−54, 500
Increase to title III	+41, 850
Net change to title III	−12, 650
New authorization (title III)	$480, 050

TITLE IV—DEFENSE AGENCIES

	Requested	Authorized
Inside the United States	$8,545,000	$4,295,000
Outside the United States	189,205,000	227,090,000
Minor construction	5,250,000	5,250,000
Secretary of Defense contingency	20,000,000	20,000,000
Total	223,000,000	256,635,000

Summary of Program

The request for Defense Agencies in this bill was $223,000,000 of which $203 million was to provide for the construction of new facilities and rehabilitation of existing facilities for the Defense Agencies at 23 installations. With few exceptions, Defense Agencies activities are located at military installations either by utilizing existing facilities or siting new facilities on the installation in the interest of economy. $20 million was for emergency construction authorization for the Secretary of Defense to provide for unforeseen construction requirements in emergency situations.

The committee gave careful consideration to all projects and the following table summarizes the authorization requested and approved:

[In thousands of dollars]

	Request	Committee approval
Defense Logistics Agency	$4,920	$670
Defense Mapping Agency	825	825
Secretary of Defense activities	2,800	2,800
Classified activity	(2,800)	(2,800)
Total, inside the United States	8,545	4,295
Defense Logistics Agency	11,400	11,400
Defense Mapping Agency	2,600	2,600
Secretary of Defense activities	25,205	13,090
DOD dependents schools	(25,205)	(13,090)
NATO infrastructure	150,000	200,000
Total, outside the United States	189,205	227,090
Minor construction	5,250	5,250
Secretary of Defense contingency fund	20,000	20,000
Total	223,000	256,635

FACILITY CLASSES SUMMARY

[In thousands of dollars]

	OSD request	Committee approval
Operational	$150,000	$200,000
R.D.T. & E.	2,800	2,800
Supply	15,650	11,400
Community support	27,805	15,690
Utilities	1,495	1,495
Subtotal	197,750	231,385
Minor construction	5,250	5,250
OSD contingency	20,000	20,000
Total	223,000	256,635

Defense Logistics Agency (DLA)

The Defense Logistics Agency (DLA) for which $12,070,000 in new authorization is granted, is responsible for the organization, direction, management and administration, and control of supply and service functions or departmental activities including the operation of a wholesale distribution system for supplies. In fulfilling the designated mission the DLA continues toward the full assumption of its responsibilities for providing uniform policies and procedures in the field of item management classification, requirements and supply control, procurement, quality and reliability assurance, industrial mobilization planning, storage, inventory and distribution transportation, maintenance, and manufacture, provisioning, technical logistics and data and information, value engineering and standardization. In addition, the Defense Logistics Agency has been assigned the mission for Contract Administration Services in support of the military departments and other DOD components, the National Aeronautics and Space Administration, other designated Federal and State agencies, and foreign governments.

The committee deferred two fuel terminal procurement projects at Ozol, Calif., and Escanaba, Mich., after testimony was received that revealed serious questions about the economics of the project.

Defense Mapping Agency (DMA)

The Defense Mapping Agency (DMA) for which $3,425,000 in new authorization is granted, was formed in 1972 by Presidential and DOD directives by consolidating the resources of the military departments to furnish mapping, charting and geodesy support to the DOD with optimum efficiency and economy. The DMA basic mission is to furnish the operating forces maps, charts, and position data needed by troops on the ground, aircraft, ships, and missiles to navigate, operate, and hit their targets.

Projects approved include a fire protection system at the Hydrographic/Topographic Center, Bethesda, Md., and alterations to certain facilities in Panama to accomplish treaty-related moves.

SECRETARY OF DEFENSE ACTIVITIES

As directed in the fiscal year 1978 committee reports, the Department of Defense has included in title IV multiservice use facilities that had previously been included in the services' titles. Included under the Office of the Secretary of Defense authorization is a project for a classified activity at Fort Belvoir, Va., for $2.8 million. Also authorized is $13,090,000 for the Office of Dependent Schools which will permit construction of or addition to five high schools or elementary schools in Iceland and the Far East. $12,115,000 for schools in Germany, the Netherlands and the United Kingdom are deferred without prejudice, pending the determination of the impact of the committee decision to reduce dependents in NATO countries.

The committee has increased the Department of Defense request for NATO infrastructure, from $150 million to $200 million as discussed elsewhere in this report.

MINOR CONSTRUCTION

$5.250,000 is authorized for funding requirements for projects authorized under 10 U.S.C. 2674.

OFFICE, SECRETARY OF DEFENSE

The Office, Secretary of Defense is provided $20 million in new authorization for emergency construction for the Secretary of Defense to provide for unforeseen construction requirements which he considers vital to the security of the United States. Considering the current unallocated balance, and the potential utilization of funds through October 1979, the authorized amount should permit this account to be maintained at an adequate balance when consideration is given to the potential areas throughout the world which could generate demands on the funds.

TITLE IV—SUMMARY OF AUTHORIZATION ACTIONS

A summary of actions taken in the title IV requests of the Defense agencies is tabulated below:

Program:	*Thousands*
NATO infrastructure	+$50,000
Defense Logistics Agency:	
Fuel terminal procurement	−4,250
Ozol, Calif	(−3,650)
Escanaba, Mich	(−600)
Secretary of Defense activities:	
DOD dependents schools	−12,115
Bad Hersfeld Elementary School, Germany	(−770)
Baumholder High School, Germany	(−1,920)
Grafenwoehr Elementary School, Germany	(−1,640)
Ludwigsburg Elementary School, Germany	(−570)
Pruem Elementary School, Germany	(−1,000)
Schwaebisch Elementary School, Germany	(−575)
Soesterberg Elementary School, Netherlands	(−3,300)
Alconbury High School, U.K	(−2,340)

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

The Department of Defense presented an authorization request for appropriations for military family housing and the homeowners assistance program as follows:

	Thousands
Minor construction	$3,000
Planning	900
Total authorization for appropriation request, construction	3,900
Operation and maintenance	1,444,659
Operating expenses	728,443
Maintenance	716,216
Leasing	104,941
Debt payment	156,325
Principle	123,425
Interest and other expenses	29,744
MIP—Capehart and Wherry	1,062
Servicemen's mortgage insurance premiums	2,094
Total O. & M. and debt payment authorization request	1,705,925
Less: Anticipated reimbursements	−16,400
Total authorization for appropriation request, O. & M. and debt payment	1,689,525
Total authorization for appropriation request, family housing	1,693,425
Homeowners assistance program	11,200
Less: Resources applied	−6,200
Total authorization for appropriation request, homeowners assistance program	5,000
Grand total authorization for appropriation request (Family housing and homeowners assistance)	1,698,425

The proposed authorization for appropriation totals $1,693,425,000 for family housing after applying $16,400,000 from anticipated reimbursements. The $1.7 billion request this year is at the same level as last year. Nevertheless, in real terms, this year's request represents a decrease compared to fiscal year 1979. The request for operation and maintenance (excluding leasing and debt payment) has increased by over $230 million due to inflation and dollar devaluation overseas. This increase has been offset in the fiscal year 1980 request by severely restricting the construction program to only $3.9 million for minor construction and planning.

In his testimony, the Defense witness testified that there were a number of reasons for not requesting any new construction or improvements to existing housing. First, significant progress has been made toward reducing the programable deficit to about 10,000 units. Second, there is a considerable amount of ongoing construction at a number of installations, such as Forts Polk, Ord and Stewart, and

El Toro, from prior year authorizations. And, finally, the constrained budget guidance applicable to holding down capital investment in military construction applies also to the family housing program. Because of the reduced deficit and ongoing construction of new housing, the deferral of further programing should not have a significant adverse impact.

The committee agreed to add $12,000,000 in authority for the Air Force to use to acquire and renovate housing units near Tinker Air Force Base. The existing housing, built in 1970 by HUD and referred to as Hamilton Courts, has been seriously vandalized but the cost to renovate is approximately $30,000 per unit versus $50,000 for new construction.

Domestic and Foreign Leasing Programs

Section 502(a) authorizes a modest increase to the average unit cost authorized for domestic leasing, from the present $300 per month to $310 per month. The Defense witness indicated that the reason for the requested increase is a departure from the basis used in prior years. Previously, increases to the statutory limitation were based upon changes in the "Rent" portion of the Consumer Price Index (CPI). The $10 increase is less than what application of the CPI would justify. The change is based upon management actions to purge leases from the program which have been executed by the services outside of administrative guidelines. The committee has approved the requested increase.

Section 502(b) applies to the foreign leasing program and increases the average and maximum per unit monthly costs to $550 and $970 respectively. The 150 unit exception to these limitations is maintained. The increases to the dollar limitations appear warranted based upon inflation factors in foreign countries compounded by the effects of dollar devaluation. Additionally, a 2,000 unit increase in the maximum number of leases was requested which would bring the new authority to 20,000. The committee does not agree that the additional authorization is required to permit execution of "lease-construct" agreements; rather, the present 18,000 unit limitation is decreased by 1,000 units in view of the committee's position on dependents in NATO.

Family Housing Management Account

Until fiscal year 1962, costs of Department of Defense family housing were carried in 16 different accounts. A comprehensive overview was impossible. With the strong support of this committee, the Family Housing Management Account was established in fiscal year 1963 to make this important support function visible, to facilitate management, and to remove family housing from competition with operational requirements which family housing usually lost.

In the 17 years from fiscal year 1963 through September 30, 1979, $16.4 billion has been made available in the account for family housing functions. Contruction cost $3 billion; operation and maintenance has taken $10.5 billion; and debt payment requirements were $2.8 billion. About 98,000 new family housing units and some mobile home facilities were constructed, some of the existing housing was improved to current standards of livability and energy conservation efficiency, and related planning and design was done with the construction funds. In fiscal year 1980, some 400,000 units will be supported from the operation and maintenance funds. Debt payment amounts cover payments of principal, interest and mortgage insurance premiums on some 180,000 of the units in inventory, representing an original debt of $2.5 billion, with a current outstanding balance of only $.68 billion.

AUTHORIZATIONS FOR APPROPRIATIONS

Section 503(a)(1) would authorize appropriations of $15,900,000 for minor construction and planning purposes as requested. Subsection (2) would authorize appropriations of $1,662,525,000 for operation and maintenance of existing housing, as well as for debt payment, leasing, and other items. This is $27,000,000 less than requested as a consequence of the $15 million adjustment made to the foreign leasing program and a $12 million general reduction in the O&M account to offset the cost of new construction at Tinker Air Force Base. Subsection (3) would authorize appropriations of $5 million for the homeowners assistance program as requested, in recognition of base realignment actions recently proposed by Defense.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

The authorization of appropriations and administrative provisions contained in title VI are for a variety of purposes, however principally they are intended to facilitate construction authorized in the bill and to enact into law certain restrictions and limitations which the committee feels are appropriate, prudent, and will insure the public interest. Those contained in the fiscal year 1980 bill are for the most part essentially the same as those contained in past years' acts, and for purposes of summarizing their general meaning and rationale, the following is a synopsis of each section.

Section 601 is the same as language contained in prior acts and has the effect of authorizing the Secretaries of the Military Departments to proceed with construction authorized free of certain limitation in existing law pertaining to advance of public moneys and acquisition of land. The first of these limitations (31 U.S.C. 529) would restrict the advance payment of money for services. However, in some instances in connection with military construction it may, for example, become necessary to construct and pay for utility lines and connections before utility services are obtained. The second limitation (10 U.S.C. 4774 and 9774) restricts construction until a detailed estimate is submitted to the Congress and specific appropriations made therefor. The third limitation, section 355 of revised statutes as amended (40 U.S.C. 255) provides that no money shall be expended for military construction until a written opinion of the Attorney General with respect to the validity of the title is obtained.

Section 602 is language which customarily appears in each annual military construction act and corresponds to the equivalent section in prior acts, except the dollar amounts are changed to the amounts of authorizations contained in the titles for each Military Department, the Defense Agencies, and military family housing.

Section 603 contains general provisions which serve the dual purpose of providing a limited degree of flexibility to the Department of Defense and military services for exceeding the authorized cost of a project, when such increases could not reasonably have been anticipated, and also established specific limits on the use of this flexibility to meet unforeseen circumstances. Briefly, subsection (a) restricts the total costs of all projects in a given title to the total amount authorized to be appropriated for the title. Subsection (b) is identical to last years' subsection and primarily authorizes the Secretary of the military department or Director of the defense agency concerned to increase the amount of authorization for bases inside the United States other than Hawaii and Alaska by 5 percent and for bases outside the United States or in Hawaii and Alaska by 10 percent provided that it is determined that such increase (1) is required for the sole purpose of meeting unusual variations in cost arising in connection with the project, and (2) could not have been reasonably anticipated at the time such project was submitted to the Congress. However, in subsection (c) when the authorization involves only one project at a named military installation, the amount may be increased up to 25 percent. Subsection (d) further provides that when the amounts named must be exceeded by more than the percentages allowed in subsections (b) and (c), the Secretary or Director may proceed with construction only after notifying the Committees on Armed Services and either 30 days has elapsed from date of such notification, or both committees have indicated their approval. Subsection (e) imposes a further restriction that any project the cost of which exceeds the statutory upper limit for minor construction projects may not be contracted for if the current estimate exceeds 25 percent, until a written notice of the facts concerning such project has been submitted to the Committees on Armed Services, as is required in the preceding subsection (d), and either 30 days has elapsed or the committees have both indicated their approval. The committee has approved modification of subsection (e) which uses the minor construction upper limitation which is now $500,000 rather than the $400,000 limitation specified in last year's act. Subsection (f) provides for annual reports to Congress on all projects awarded under subsections (d) and (e). Finally, subsection (g) authorized the Secretary of Defense to increase any of the cost limitations in this or prior Military Construction Authorization Acts and increase the square footage limitation applicable to family housing in order to utilize solar heating and/or cooling equipment in a military construction project.

Section 604 is again identical to the same section in last year's act. Essentially it directs that construction carried out under this act will be accomplished by the Army Corps of Engineers, the Naval Facilities Engineering Command, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves, to assure expeditious and cost effective accomplishment. Additionally, it provides that the military services shall report annually to the Congress on the 10 architect-engineer firms which in terms of dollars were awarded the most Government business; and finally, it provides that all construction contracts, except architect-engineer contracts, insofar as is practicable shall be awarded on a competitive basis to the lowest responsible bidder and that the service Secretaries shall report annually to the Congress on all contracts awarded on other than a competitive basis.

Section 605 is similar to the repeal provision in last year's Act and continues in effect the previously established policy of repealing military construction authorizations that have not been used within a specified period after enactment. As a result, after October 1, 1981, only those authorizations, with certain exceptions, which are contained in public laws and enacted subsequent to September 8, 1978, would continue to remain available.

Section 606 is another repetitive provision and pertains to annual limitations on the cost of permanent barracks and unaccompanied officer quarters. In recent years as a result of continuing construction cost inflation, these limits have been updated as necessary. In this year's program, we are proposing $48 per square foot for permanent barracks and $52 per square foot for unaccompanied officer quarters. The previous cost limitations were $45 and $48, respectively.

The cost limitations that are stated in dollar amounts apply where the areas construction cost index is 1.0. The cost limitations in areas where the area construction cost index is more or less than 1.0 will be computed and would be proportionately higher or lower. For example, if the area construction cost index was 1.05, the cost limitation for permanent barracks would be $50.40 per square foot. The new limitations would also apply to constructed projects which have been previously authorized, but not awarded prior to the date of enactment of the fiscal year 1980 authorization bill.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

	Requested	Authorized
Army National Guard	$14,537,000	$18,237,000
Army Reserve	19,824,000	24,824,000
Naval and Marine Corps Reserves	12,790,000	16,090,000
Air National Guard	23,500,000	29,500,000
Air Force Reserve	7,500,000	9,500,000
Total	78,151,000	98,151,000

As noted in the above summary, title VII provides authorization of $98,151,000 to support the facilities programs of the Guard and Reserve Components. This is still a considerable reduction from the nearly $145 million authorized in fiscal year 1979, but testimony received from witnesses of the Office of the Secretary of Defense revealed that the entire military construction program for fiscal year 1980 is very austere, and that the relatively small amount contained in the Guard and Reserve program request is a reflection of the total reduced military construction request. In adding the $20 million to the Defense Department request, the committee recognized the $2 billion of construction backlog for the Guard and Reserve, and the fact that inflation alone, would not allow reduction of this enormous requirement with the authorization requested by the administration. The committee believes a proper training environment cannot be established unless the construction backlog is positively addressed and reduced.

Under the lump sum authorization procedures used for Guard and Reserve construction, the Congress is furnished advance notification concerning the location, nature, and estimated cost of specified projects proposed to be undertaken within the authorized amount provided each Guard and Reserve Component. This notification requirement was established for all projects with an estimated cost of $100,000 or more, commencing in fiscal year 1975. Since that time, the cost for constructing similar facilities has risen to approximately $175,000. Paragraph (1) of section 2233a of title 10, United States Code, has been amended, therefore, to require congressional notification for only those projects whose estimated cost exceed $175,000, commencing in fiscal year 1980.

The fiscal year 1980 program as submitted contains 94 projects and s structured to emphasize improvements in readiness, training and recruitment and retention of personnel. Current tentative project lists n support of the lump sum authorization indicate that $23.1 million will be used to construct, expand or modify 28 armories and training centers for the Army National Guard and Army Reserve whereas an additional $11.2 million will be used to meet urgent requirements for vehicle maintenance, aviation support, field training and other nonarmory facilities. The Naval and Marine Corps Reserves propose to use $5.3 million for the support of surface reserve training centers and $7.5 million for aircraft operations and maintenance facilities and energy conservation projects. The Air National Guard and the Air Force Reserve propose to use $3.7 million for operational facilities, $18.6 million for maintenance facilities, $4.2 million for training facilities and $4.6 million for general support.

The committee received convincing arguments for proceeding with the construction of barracks in support of the Army Resrve at Camp Pickett, Va., at the earliest possible time. The committee expects the Army Reserve to give high priority to the earliest possible programming of this project within the level of funding authorized for the Army Reserve construction effort.

The committee was made aware of three high priority projects, an armory for the Army National Guard at Camp Grafton, N.D., ($907,000), an armory for the Army National Guard at West Columbia, S.C. ($700,000), and an Army Reserve Center at Weirton, W.Va. ($1,000,000) which the committee would expect to be accomplished using part of the additional authorization provided.

The following summary represents the status of lump sum authorization provided since the Guard and Reserve Forces facilities program reverted to that method of authorization in 1963:

RESERVE FORCES FACILITIES—ESTIMATED STATUS OF LUMP-SUM AUTHORIZATIONS AS OF MAR. 1, 1979

[In thousands of dollars]

	Army		Naval and Marine Corps Reserve	Air Force		Total
	National Guard	Reserve		National Guard	Reserve	
1. Lump-sum authorization (cumulative fiscal years 1963–79)	416,473	341,008	222,770	331,523	120,123	1,421,897
2. Estimate of authorization to be committed through fiscal year 1979	421,691	337,406	221,604	330,523	119,525	1,427,749
3. Uncommitted balance	3,782	3,602	1,166	1,000	598	10,148
4. Added by present bill	18,237	24,824	16,090	29,500	9,500	98,151
5. Total available, fiscal year 1980	22,019	28,426	17,256	30,500	10,098	108,299
6. Estimated commitments in fiscal year 1980	18,237	26,291	16,090	29,500	9,973	100,091
7. Estimated residual authorization, end fiscal year 1980	3,782	2,135	1,166	1,000	125	8,208

TITLE VIII—GENERAL PROVISIONS

The general provisions contained in title VIII are nonrecurring provisions which for the most part amend previous statutes and which are designed to reflect inflationary effect on prior dollar thresholds, to improve construction execution by eliminating unnecessary paperwork, and to modify provisions to improve management and efficient use of constructions resources.

The committee did not approve the Department of Defense request to amend section 612 of Public Law 89-568, as amended, to raise the dollar amount of architect-engineer contracts which must be reported to Congress prior to obligation from $250,000 as now enacted to a new threshold of $325,000. The current threshold insures that the Armed Services Committees see construction projects costing $5 million or more before they go to design.

Section 801 proposes to amend section 2674 of Title 10, United States Code to permit execution of minor construction projects at specified locations, which were identified in the annual military construction program submitted to Congress, immediately upon the enactment of the annual authorization and appropriation bills. The purpose of this amendment is to speed up construction execution and to eliminate unnecessary paperwork.

Section 802 proposes an amendment to section 803 of Public Law 95-356 to provide for the development of energy sources on military lands or on private property. The purpose of the amendment is to cover cases such as construction by private enterprise of a refuse derived fuel heating plant where the contractor might not be willing or able to locate on government owned land.

Section 803 would provide the Secretary of Defense, or the Secretary's designee, with the authority to negotiate with the landowners of he Island of Roi Namur, Marshall Islands for the past use of their and by the Department of Defense. Roi Namur is a key element of the Kwajalein Range. The landowners have made settlement for the Gov-rnment's past use a prerequisite to negotiations for the continued use f this land following dissolution of the trusteeship for the Trust Ter-itory of the Pacific Islands.

Section 804 authorizes the Secretary of the Air Force to convey to King County, Washington, the 143rd Combat Squadron, Washington Air National Guard, leased site located at Boeing Field, Seattle, Wash-ngton upon the provision of a replacement facility of comparable alue for the National Guard Unit. The Air National Guard will be re-uired to accomplish certain other construction projects as a prerequi-te to this no cost land exchange and it is the committee's intent that hese projects should be accomplished within the funds authorized in tle VII.

Section 805 authorizes the Secretary of Defense to expend up to $500,000 from the minor construction authority for the purpose of a capital contribution to the International Institute of Strategic Studies.

Section 806 authorizes the temporary use of 5.6 acres of land and improvements on the remaining portion of the former Ent Air Force Base, Colorado Springs, Colo., by the U.S. Olympic Committee in furtherance of U.S. Olympic amateur athletic activities.

Section 807 authorizes the use of mass transit systems on military installations. During its deliberations, the committee learned that under the provisions of 31 U.S.C. 638 a(c)(2) the movement of military personnel within a military installation for administrative purposes (e.g., to and from work) by government vehicle was prohibited. As a result mass transit systems within a military installation normally do not exist.

The committee has inserted Section 807, in an attempt to save energy and reduce air pollution. It is the intent of the committee that this not be used to establish military mass transit systems in competition with private enterprise. The committee envisions mass transit systems within a military installation or in some cases between sub-installations that are within reasonable proximity. The committee considers the use of mass transit may do more for energy conservation on a military installation than requiring payment for parking, which the President has stated he intends to pursue.

The committee intends that all costs of the mass transit system should be recovered through a fare system. Costs include capital investment costs, salaries, and operating and maintenance costs. If a mass transit vehicle is to be used for operational purposes as well as administrative purposes only that portion of the costs directly associated with the mass transit system for administrative purposes need be recovered.

The committe expects to be kept advised of the implementing regulations for this provision and a detailed report to include the estimated impact should be provided with the next budget request for military construction.

Section 808 would allow the Department of Defense to make the contribution required by EPA and do so consistent with the law protecting existing Federal contract rights. In addition, each and every Defense contribution would have to be included in a Military Construction Authorization Act and a corresponding Appropriation Act.

Under § 202 of the Federal Water Pollution Control Act, P.L. 92–500 (1972), the Environmental Protection Agency (EPA) is required to provide funding for 75% of the construction costs of waste treatment works approved by EPA and built pursuant to the Act. In 1975, over the objection of DOD, EPA proposed Program Guidance Memorandum PG–62. This document required that all Federal facilities contribute their "share" of EPA's 75% construction grant, based upon the Federal facility's percentage flow into the plant. The rationale for this was that it would stretch EPA's grant funds. This policy was approved by OMB and later acquiesced in by OSD.

The several military departments have complied with this guidance wherever possible, consistent with Federal procurement statutes.

Where a military facility is entering into new sewage treatment contracts with local municipalities, the various services have paid their proportionate share according to EPA's formula as a part of the connection charge. Where the Government has an existing contract which does not provide for such contributions outside of a general rate increase to *all* customers, it cannot pay more for the same services simply by modifying the contract. There must be some compensating benefit to the Government such as consideration for a contract change that increases the price. *See* 41 Comp. Gen. 134 (1961); 40 Comp. Gen. 684, 687–88. In his most recent opinion on this subject, B-189395, 27 April 1978, the Comptroller General applied this principle to the precise question raised by EPA's program memorandum.

In *Section 809* the committee has added a provision to the bill prohibiting the realignment of Loring Air Force Base. As a rule the committee does not inject itself into the base realignment prerogatives of the Executive Branch. However, in the case of Loring Air Force Base, the committee, through extensive hearings on the Loring realignment proposal, has become convinced that there are cogent strategic reasons not to dismantle this installation. The committee emphasizes that the decision to include this provision derives from strategic considerations and not from the economic and social consequences that might result from such a reduction of Loring Air Force Base (although such consequences are recognized and would require mitigation if the reduction were pursued). While a full discussion of the strategic considerations would get into classified material, the case for the continued availability of Loring Air Force Base can be justified by the simple fact that this base is located at least 200 miles closer to Europe, the mid-East and the Soviet Union than any other Strategic Air Command (SAC) Base.

The action by the committee with respect to Loring Air Force Base precipitated the even broader question of the future basing of strategic systems in general. Trident will be based at Bangor, Washington, and possibly at King's Bay, Georgia. But the question of the basing of the other lags of the strategic Triad is very fluid at the present time. No decision has been made on MX basing. Decisions are being made incrementally on the beddown of the Air Launched Cruise Missile, and the decision on a follow-on penetrating bomber has not been made. In view of this complex set of evolving decisions, the committee questions the prudence of eliminating or reducing SAC bases. The committee requests that the Secretary of Defense provide a report to the Committees on Armed Services that examines the options available for the long range basing requirements for strategic systems which addresses in particular the question of whether or not existing SAC bases should be abandoned. Such report should be provided by March 1, 1980.

Under *Section 810* the committee amended the bill to provide that the provisions of the Davis-Bacon Act of 1931, as amended, should not apply to the wages paid to laborers and mechanics for any work or services performed under any contract for the construction of any project authorized by the fiscal year 1980 or any other military construction authorization act if such contract is entered into on or after the date of enactment of this act.

According to the April 1979 General Accounting Office study o Davis-Bacon, the value of construction accomplished in the United States in 1977 totalled $177 billion, of which $37 billion was financed in some way by the Federal Government and therefore, covered b the Davis-Bacon Act.

While this bill totals $3.7 billion, only $1.4 billion of that amoun is for new construction in the United States and is subject to Davis-Bacon requirements. The waiver of Davis-Bacon coverage for th $1.4 billion of new construction in this bill affects about 5 percent o the total Federal construction effort now subject to Davis-Bacon.

Defense Department witnesses testified that based upon Genera Accounting Office estimates, cost reductions of 5 to 15 percent ar possible if Davis-Bacon is waived—a savings of $70 to $210 millio on this bill.

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Calendar No. 227

96th Congress }
1st Session }

SENATE

{ REPORT
{ No. 96-210

REORGANIZATION PLAN NO. 2 OF 1979

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. Res. 140

TOGETHER WITH

MINORITY VIEWS

JUNE 13 (legislative day, MAY 21), 1979.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
46-810 O WASHINGTON : 1979

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96th Congress
1st Session

SENATE

Report
No. 96–210

REORGANIZATION PLAN NO. 2 OF 1979

June 13 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Ribicoff, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. Res. 140]

The Committee on Governmental Affairs, to which was referred the resolution (S. Res. 140) to disapprove Reorganization Plan No. 2 of 1979, having considered the same, reports unfavorably thereon without amendment and recommends that the resolution do not pass.

I. Summary of Reorganization

The purpose of Reorganization Plan No. 2 is to improve the way the U.S. Government makes development decisions significantly affecting the Third World. Presently there is no agency with sufficient authority over both the bilateral and multilateral assistance programs to ensure consistency between the U.S. role in both areas. Presently there is no agency with sufficient visibility, stature, and independence to formulate an effective, overall development policy for the United States, or to ensure that development issues receive adequate attention within the Government in a wide variety of areas.

To remedy these problems the reorganization plan establishes an independent agency, the International Development Cooperation Agency (IDCA), to formulate U.S. development poliices towards the developing world, and to serve as a focal point within the U.S. Government for consideration of matters which significantly affect the developing world.

The reorganization provides that the IDCA Director will be the President's principal advisor on development matters. He will have "primary responsibility for setting overall development assistance policy and coordinating international development activities supported by the United States." In addition, the plan states that the IDCA Director shall also advise the President on all other matters significantly affecting the developing world, including such other areas as trade, science and technology. IDCA will set overall development policies, coordinate and ensure proper balance between different bilateral programs and U.S. support for multilateral assistance programs. Its Director shall be the President's spokesman on development issues in a wide range of interagency decisions which do not relate to foreign aid.

The reorganization will significantly change the way the United States participates in the multilateral development banks—the World Bank Group, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. U.S. support of these programs was more than one and one-half times as large in 1979 than the bilateral assistance program administered by AID. Currently Treasury has full responsibility for U.S. participation in the banks, with AID playing only an advisory role. The reorganization transfers authority over the developmental aspects of our participation in these multilateral development banks from the Treasury Department to IDCA. The reorganization will also transfer from the State Department to IDCA budget and policy responsibility for eight major international development programs. These will include the UN Development Program, UNICEF, the World Food Program, the UN Disaster Relief Organization, and four other international development organizations or programs in the UN or the Organization of American States.[1]

IDCA will also include the Agency for International Development (AID) and the proposed new Institute for Technological Cooperation. The Institute will cooperate with developing countries on programs in science and technology which will assist the country's development. AID and the Institute will operate as identifiable units within IDCA. The Director of IDCA will have budget and policy control over AID and the Institute, but the agency will not administer the day-to-day activities of either program so that IDCA may exercise most effectively its broad policy responsibilities. The IDCA Director will replace the AID Administrator as Chairman of the Board of Directors of the Overseas Private Investment Corporation (OPIC).

By establishing IDCA, the reorganization will help resolve a number of serious problems, and ensure a more effective use of U.S. resources.

It improves the overall foreign assistance program by giving one agency the authority to make sure that U.S. support of the various multilateral and bilateral development program is consistent and balanced.

It improves the ability of the government to monitor U.S. participation in the multilateral development banks and the U.N. development agencies and thereby helps ensure more effective use of U.S. contributions.

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[1] The four other organizations are the Organization of American States Technical Assistance Funds, the UN Capital Development Fund, the UN Educational and Training Program for Southern Africa and the FAO Post-Harvest Losses Fund. The responsibility for U.S. participation in these multilateral development banks or organizations are currently governed by Executive Orders which delegate authority from the President to specific agencies. Accordingly, this aspect of the reorganization will be affected through Executive Orders and other Presidential directives. See Appendixes C and D, and this report's section-by-section analysis of section 6 of the plan.

It establishes for the first time an agency with sufficient stature and independence to highlight, and to require other agencies to consider, the effect that a wide range of non-aid issues may have on U.S. relations with developing countries.

It establishes a single officer who can speak with authority before Congress on all aspects of the country's development program, and who can be held accountable by Congress for the success of those programs.

At the same time the reorganization will impose no additional cost on taxpayers or establish large new bureaucracies. The 35 to 50 professional positions the agency will require will be transferred from other agencies.

II. Reasons for the Reorganization

The growing importance of this country's relations with the Third World requires an organization that reflects this importance.

The developing world includes at least 2 billion people, or at least one-half of the world's population. One million U.S. jobs now depend on exports by this country to the developing world and the growth of U.S. exports to the less developed countries is growing at a significantly faster rate than exports to developed countries. U.S. imports of raw materials from some developing countries are a vital part of this country's economy. Five developing countries supply almost 50 percent of world exports of copper, and two account for more than 50 percent of world tin exports.

At the same time 1 billion people in the developing world do not have access to water that is drinkable. 700 million do not have enough to eat. 500 million are illiterate. The effectiveness of U.S. efforts to assist the developing nations in these areas will significantly affect what the U.S. can accomplish with these countries in other areas. Some of the most likely arenas of future conflict lie in parts of the developing world in the Middle East, Africa, and Asia. The quality of U.S. relations with the developing country will thus affect world peace, as well as the U.S. economy.[2]

Ambassador Owen's testimony before this Committee described the importance of U.S. relations with the Third World this way:

> As we all recognize there is a strong link between the vitality of the American economy and prosperity in the developing nations. Last year, the developing countries purchased more than one-third of all U.S. exports, for example, and over the past five years they have provided more than one-quarter of the raw materials this country consumes. Clearly we can enhance our own well-being by encouraging and assisting rapid and equitable growth in the developing world.
>
> The political importance of the developing nations to the United States is growing. In the long term it will be as significant as their economic role. These nations can play an important role in helping to resolve conflicts and in supporting policies that permit a more stable and mature world order. . . . Our economic aid is the most visble expression of our

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[2] See generally statement of Secretary of the Treasury Blumenthal before the House ppropriations Committee, Subcommittee on Foreign Operations, Mar. 6, 1978.

interest in the economic well-being of developing nations and a closely watched barometer of our intentions in the so-called north-south dialogue.[3]

This reorganization constitutes the first major restructuring of the U.S. foreign aid program since the creation of the Agency for International Development in 1961. Since 1961 the role of the Third World, and the nature and extent of the U.S. foreign assistance programs, has changed dramatically. The Library of Congress estimates that in January 1961 there were only 73 independent developing countries, while today there are over 130. In fiscal year 1961 the total contribution of the United States to bilateral and multilateral assistance was $2.2 billion. During the 1960's subscription payments to the multilateral development banks represented only 2 percent of total U.S. official development assistance. In 1979 the total multilateral and bilateral assistance program amounted to over $7 billion. The largest single portion of that was the $2.5 billion contributed in both callable and paid-in-capital to the multilateral development banks. In 1961 the UN Development Program had not yet even been established. Today it represents the largest source of development assistance in the UN.

The present organization of the Federal Government for foreign assistance still reflects the circumstances of the 1960's rather than the 1980's. Because of this, there are serious problems.

President Carter in his message accompanying submission of the Reorganiation Plan identified four major shortcomings with the current organization:

> When this Administration took office, United States support of international development suffered from four major problems.
>
> First, no single U.S. official was charged with the responsibility for establishing a comprehensive and coherent strategy for our nation's efforts in this field. Second, no agency or official had the authority to insure that the various U.S. programs affecting development were consistent with each other or complemented the programs of the multilateral organizations to which we contribute. Third, none of the agency heads testifying before the Congress about his particular portion of our foreign assistance efforts was able to speak authoritatively for the program as a whole or for the Administration's over all development policies and priorities. Finally, because there was no authoritative spokesperson, development concerns were at times accorded insufficient weight in Executive Branch decisionmaking on trade, monetary, and other non-aid economic issues that affect developing nations.

A witness with long experience in the development area testified before the Committee:

> Any informal listing of significant foreign affairs issues would have to include U.S. relations with developing countries and their peoples at or near the top . . .

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[3] Appendix B, p. 37.

> It is clear from the history of the past decade that the U.S. government has not known how to interact with this unity of aspiration and heterogenity of need. There has been no philosophy guiding our actions and no place in the government where thinking about this has been a central task. As a consequence policy has veered from intense confrontation to temporary truces. For most senior officers concerned with foreign policy, relations with developing countries have been an afterthought—for example, trade and monetary relations with other industrial countries or political-economic dealings with communist countries.[4]

The reorganization addresses these problems in a number of important ways.

A. The Reorganization Will Promote Consistency and Cooperation Between the Different Foreign Assistance Programs

The reorganization establishes a single individual who will have the necessary stature and authority to coordinate U.S. development assistance in a wide range of bilateral and multilateral programs. It will replace the current, unsuccessful reliance on international coordinating committees which reduce the effectiveness of the overall U.S. program.

The most important committee for coordinating U.S. foreign assistance programs is the Development Coordination Committee. It includes up to at least 16 agencies and 7 subcommittees. Other interagency committees seeking to coordinate aspects of our bilateral assistance program include the National Advisory Council on International Monetary and Financial Policies (NAC), the Development Loan Staff Committee (DLSC) and the Interagency Staff Committee on P.L. 480 (ISC). Over 36 different U.S. agencies take part in a maze of interagency committee coordinating our role in international organizations.[5] The process for coordinating U.S. participation in the multilateral development banks may include as many as 9 to 10 agencies, or more, depending on the sector or functional areas involved.

Yet these interagency coordinating committees are often held at too low a level, and with too narrow a perspective, to be effective. They are often driven by the immediate need to frame a U.S. position on a particular issue by a particular date. As a result, the committees often fail to look at the large policy implication of the issue. They often concentrate on a single bilateral or multilateral program, not on a broad review cutting across different programs conducted by different agencies or organizations. They often adopt the path of compromise and caution, rather than seek the establishment of new or clearer policies.

A recent Library of Congress study published by the House Foreign Affairs Committee concluded:

> . . . The relative emphasis the United States gives to humanitarian relief, basic human needs, and infrastructure and industry in its development programs remains unclear.

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[4] Testimony of Sidney Weintraub, Senior Fellow, the Brookings Institution, former Assistant Administrator of AID for Interagency Development Coordination and former Deputy Assistant Secretary of State for International Finance and Development.

[5] For complete listing of the agencies and committees, see "U.S. Participation in International Organizations," Senate Committee on Government Operations, February, 1977, Appendix XII.

> A coherent and balanced set of policy goals in this area can significantly facilitae effective coordination of U.S. aid policies with other U.S. foreign policy concerns.[6]

Areas where there is a need for a clearer and more coherent policy include U.S. policy toward middle-income countries, human rights issues, the development of renewable energy sources, and population and nutrition issues. For example, the amount and nature of direct food aid through such programs as Public Law 480 affects the extent and success of efforts to increase food production through development assistance. The amount of population growth in the developing world has often been shown to be related to economic development. Currently there is no agency that can consider the interrelationship of all three—population, food aid, and economic development—and come up with an authoritative strategy taking all three into account.

The following are some of the specific failures in U.S. policy which the lack of coordination has caused:

> During 1976–1977, AID provided nearly $76.8 million to Bangladesh in a continuing effort to increase food production and rural income. At the same time, however, the Department of Agriculture sent so much food to Bangladesh through the Public Law 480 program that the supply overflowed local storage facilities, and millions of dollars worth of food were lost to spoilage while excess supplies depressed prices received by poor Bangladesh farmers.[7]
>
> In one case a few years ago, the State Department and the White House decided to provide bilateral aid to Indonesia on concessional terms. The United States encouraged other countries to do the same. Yet the United States, at the instruction of the Treasury Department, was at the same time strongly opposing aid on concessional terms in the World Bank Group and the Asian Development Bank.[8]
>
> In a similar incident in 1979, the United States through the Treasury Department, opposed a $8.6 million water and sewage loan for Ethiopia proposed by the African Development Fund. The United States did so because of the expropriation of U.S. owned investments in the country. Simultaneously, AID presented initial plans to Congress for a continuing program of bilateral assistance to Ethiopia, including $8.78 million in new grant aid. U.S. bilateral aid, as well as U.S. support of multilateral loans, is prohibited if the host country expropriates U.S.-owned investments without adequate compensation. Contrary to the U.S. position in the African Development Fund, however, AID concluded that U.S. aid should continue during negotiations on the expropriation problems.[9]

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[6] U.S. Congress, House Foreign Affairs Committee. Issues and Options in the Coordination of U.S. Foreign Aid Policy, (Committee print, prepared by the Foreign Affairs and National Defense Division, Library of Congress) 96th Cong., 1st sess., May 1979, p. 8.

[7] See AID Fiscal Year 1978 Submission to the Congress, Asia Programs, February 1977, pp. 15–35; U.S. Congress, Senate Foreign Relations Committee, "Commodity Storage Conditions in Bangladesh," (Committee Print), 94th Cong., 2d sess., September 1976.

[8] Sidney Weintraub, "The Anarchy of Policy-Making Towards Less Developed Countries," *Challenge*, vol. 20, No. 1, March/April, 1977, p. 17.

[9] See the Gonzalez amendment to the African Development Fund Act. Public Law 94-302, approve May 31, 1976, section 210, and the Hickenlooper amendment to the Foreign Assistance Act of 1961, Public Law 87–195, section 620(e)(1), as amended by section 301(d)(3) of the Foreign Assistance Act of 1962, Public Law 87–656, approved Aug. 1, 1962. See further "AID Congressional Presentation Fiscal Year 1980", Annex 1, Africa, pp. 242-257, Feb. 1, 1979.

> In 1978 the State Department and Treasury agreed that the Asian Development Bank should increase support for middle income countries. The U.S. Executive Director formally took a position in the Bank in accordance with this position. Yet, this U.S. policy was not discussed in the National Advisory Council on International Monetary and Financial Policies (NAC), the interagency committee governing at that time U.S. participation in the bank. Nor was AID consulted directly. Subsequently, AID pointed out the effect on low income countries of increased lending to middle income countries, and the inconsistency of this with U.S. bilateral policy giving first priority to low income countries. By that time, however, it was too late. The U.S. position in the Asian Development Bank was modified slightly, but basically remained inconsistent with its bilateral assistance program in the same area.
>
> In 1977, during a congressional staff study of development programs in Pakistan, investigators from the House International Relations Committee discovered that AID and World Bank officials in Islamabad had never coordinated details of their respective rural electrification programs, and they were each giving the local government agency conflicting advice based on different pricing policies and operating assumptions. The U.S. policy coordination process had not caught the discrepancies between the bilateral and multilateral programs when each was approved, and local AID officials were apparently not abreast of how other donor agencies were implementing similar programs in their area.[10]

The reorganization will establish for the first time a single U.S. agency which will be able to look at all the programs that are being administered on a bilateral and multilateral basis within a single country and, on the basis of that review, formulate a strategy that would make the most effective use possible of all the development funds contributed to that country. For example, there are active today in Kenya approximately 17 bilateral and 14 multilateral donor agencies from all over the world. As of December 31, 1977, donor commitments for ongoing projects totalled $1.5 billion, including $86.7 million from the United States. The head of IDCA could look at that country's needs as a whole and determine in consultation with Kenya what the most desirable balance between different types and areas of assistance should be. Based on this, he can then determine how much U.S. bilateral assistance should be provided. He can encourage OPIC to provide a certain amount of insurance for private investment in the country. He can ensure that the Institute for Technological Cooperation supports research and development programs in the country that complement the other programs. He can ensure that the U.S. executive director to the multilateral banks encourage and emphasize projects that are consistent with other efforts in the country. He can work in the UN Development Program to see that this UN agency provides support in a way that complements all the other activities in the country. As a result, an across-the-board comprehensive solution to a country's chief development problem can be worked out in a coordinated way.

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[10] U.S. Congress, House International Relations Committee, "New Directions Aid Programs in Asia ; Indochina Refugees in Thailand." Report of a Staff Study Mission to Thai- and, Bangladesh, India and Pakistan, Nov. 16–Dec. 15, 1977," Mar. 17, 1978, p. 74.

B. The Reorganization Will Improve the Effectiveness of the U.S. Role in Multilateral Development Programs

U.S. contributions to the multilateral development banks of $2.5 billion in 1979 represents the largest single part of our development assistance program. The U.S. contributed in 1979 an additional $166.3 million to UNDP, UNICEF, the World Food Program, the UN Disaster Relief Organization and the four other development programs of the UN or the Organization of American States over which IDCA will also have lead budget and policy responsibility.

The reorganization places an agency with the sufficient staff and expertise on development matters in charge of the developmental aspects of our participation in these multilateral programs. This will increase the ability of this government to monitor the way our very substantial contributions are used. It will enable this government to do all it can to ensure an effective and efficient use of U.S. contributions.

This Committee's report entitled "U.S. Participation in the Multilateral Development Banks" examined the current arrangements for U.S. participation in the multilateral development banks and found them seriously flawed.[11]

It found that U.S. decisions with respect to both general policies and the particular projects of the banks are often made in an incremental, ad hoc fashion. The shaping of such policies does not always receive consideration at as high a level as they should. Current arrangements for the review of individual multilateral development banks projects fail to ensure full review of the developmental aspects of each proposed project. The Treasury Department has only 1 or 2 professionals who devote full time to the review of up to 20 loans each week to the multilateral development banks, for a total sometimes exceeding several hundred billion dollars. Furthermore, the study of this committee found that Treasury is most likely to be concerned with the rates of return, interest rates, cost overruns and collateral economic policies to the extent that it does review the loan projects of the banks.

At the same time there has been a significant lack of consideration of these loans and policies by AID, the agency with the most expertise in the field. AID, with a total of 5,000 employees, has development experts located in 32 different countries where the multilateral banks are also active. Yet AID, in its current status as simply an advisor to the Treasury Department, has not played as an effective role as it should in reviewing loan projects. Financial issues are still raised more frequently than developmental issues in connection with U.S. review of the loans. Once a loan project is approved the U.S. Government does little to evaluate ongoing projects themselves.

The Committee report concluded that to ensure greater input from the developmental perspective, the U.S. agency responsible for development assistance must be given greater actual authority for U.S. participation in these banks.

The Comptroller General of the United States similarly emphasized in its testimony on this plan that if IDCA is to be effective it must have significant authority over U.S. participation in the multilateral development banks.[12]

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[11] "U.S. Participation in the Multilateral Development Banks," Senate Committee on Governmental Affairs, Apr. 30, 1979. See especially pp. 1–11.

IDCA will have the primary responsibility for establishing the U.S. position on development issues arising in the banks, including the U.S. position on each proposed project. Its decisions will build upon AID's assessment of proposed bank projects and on the expertise of its own staff. IDCA will also have the lead responsibility for evaluating bank projects once they are completed so that IDCA can better assess future proposals by the banks, and better assess for Congress the value and effectiveness of the work of the banks. In this area too IDCA can utilize the resources and knowledge of AID employees in the field throughout the world. At the same time, the reorganization will preserve for the Treasury Department the responsibility for the financial aspects of U.S. participation in the banks.

The reorganization should achieve similar improvements in the way the U.S. participates in the major development assistance programs of the U.N. At present the State Department has sole responsibility for U.S. participation in these programs. AID plays only an advisory role. The Committee, in a 1977 report entitled "U.S. Participation in International Organizations," concluded that under the current arrangement the State Department does not have the adequate experience, or accord participation in the organizations adequate priority to ensure effective U.S. participation in the UN development agencies.[13]

GAO came to similar conclusions in a report entitled "Management Improvements Needed in U.S. Financial Participation in the UN Development Program." This study determined that "the State Department has not developed and promulgated U.S. policy objectives and priorities relative to U.S. support of the [United Nations Development] Program." A 1977 follow-up study, "U.S. Participation in International Organizations," found that:

> Notwithstanding past criticism, the State Department and other executive branch agencies have not greatly changed the way they manage U.S. participation in international organizations. Organizational problems still cause inadequate direction and guidance, and the U.S. review and evaluation processes have continuing problems." [14]

The reorganization will eliminate AID's present advisory role and lace in IDCA final responsibility for U.S. participation in the UN evelopment Program and the other organizations. IDCA will be able give the development aspects of U.S. participation in the organizations greater, and more expert, attention. Because the UNDP relies upon a number of other specialized agencies of the UN such as the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) to carry out assistance projects in host countries, IDCA's lead responsibility for the U.S. role in UNDP will also mean that it has a leading role in the work of these other UN agencies as well. Just as in the case of the banks, IDCA will be able to draw on its own expertise and the experience of AID officials in the field to increase the amount of attention the United States devotes to these international organizations, and the amount of knowledge it brings to its review of the organizations' activities. At the same time the State Department will continue to contribute its special expertise by carrying out day-to-day representational responsibilities, subject to the policy direction of IDCA.

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[12] The Comptroller General supplemented his testimony in a letter to the Chairman of e Committee on May 14, 1979, in which he said "I believe your request for the issuance an Executive Order which would incorporate the asurances given to you by the Adinistration witnesses in their testimony will require the Administration to significantly rengthen the plan. . . .

The reorgaization coupled with an effective Executive Order incorporating the assurnces you requested will be a significant improvement over the present system for adminisring the resources made available by the United States through various channels to the eveloping world. In the absence of an effective Executive Order, the desired development ordination improvements sought will be virtually impossible to obtain."

[13] "U.S. Participation in International Organization," Senate Committee on Government erations, February, 1977, pp. 35–38.

[14] General Accounting Office, "U.S. Participation in International Organizations," June . 1977, p. 11.

C. The Reorganization Will Increase the Consideration Given to Development Concerns in a Wide Range of Other Areas

The reorganization will ensure for the first time that a development agency with the necessary stature, authority, and independence will fully participate in a wide range of other matters significantly affecting the developing world that do not directly involve foreign aid. The head of IDCA will be under an express requirement of law to participate in Executive Branch deliberations of such issues as trade, investment, science and technology as they affect the developing world. IDCA's mandate will include this country's policy towards the developing world on such issues as forgiveness of debts, commodities, and the environment, as well as broader questions of which countries, governments, and programs the U.S. should support.

For example, a number of different U.S. agencies take the lead on trade issues significantly affecting the developing world. The Office of the Special Trade Representative takes the lead in multilateral trade negotiations pursuant to GATT. Treasury takes the lead in issues arising in the International Monetary Fund or the multilateral development banks. The Commerce Department takes the lead in certain export promotion functions in the developing world. The State Department negotiates commodity agreements and leads the U.S. delegations to a number of conferences, such as the UN Conference on Trade and Development (UNCTAD).

Each of these agencies tend to treat the impact of trade issues and programs in terms of its own agency priorities, without any overall concept of U.S. development policy.

At the Fifth United Nations Conference on Trade and Development (UNCTAD V) in Manila, May 7–June 1, 1979, the developing countries reportedly sought to discuss trade issues arising from the Tokyo Round of multilateral trade negotiations, key international monetary issues, and ways of linking the creation of new Special Drawing Rights to their developmental needs. The United States, led by the State Department, insisted these were specialized topics which belonged, not in UNCTAD but in the GATT, the International Monetary Fund, or the World Bank. Others suggest, however, that the United States, led by different U.S. agencies, often seem to discourage action on many of these Third World concerns when they come up in these more "appropriate" forums.[15] They suggest there is no consistent U.S. position on which organization should consider each of these issues.

Currently there is no assurance that the development aspects of a wide range of non-aid matters will even be addressed when they arise in a variety of ways. For example, according to one study, officials putting together specifics on the tariff preference system, particularly the items for inclusion on the eligible list, did not include the representative of any agency involved with overall relations with less developed countries. Although AID did insist on inclusion in the deliberations at the staff level, AID was unable to attend the senior-level meeting where the final decisions were made.[16]

The reorganization establishes for the first time a development agency with the stature and mandate to ensure access to discussions on non-aid issues, and with the ability to play an influential role in the resolution of such issues.

It will establish a single U.S. agency which will be able to identify basic policy objectives; analyze long-range development issues; design and implement a process for preparing an overall United States development budget; and prepare the annual development policy statement. The work of IDCA will help clarify the budgetary and policy decisions the President must make. It thus will simplify the role of the President and reduce the need for Presidential involvement that now exists because of the ineffective nature of the current structure of interagency coordination.

Of course, in some matters, cutting across a wide range of issues and gencies, IDCA will not have the formal decisionmaking authority. The judgment of the IDCA Director on developmental matters, however, will be taken into account and, as the President's principal adisor on development matters, his conclusions should be accorded great eight in the final decisionmaking process.

. The Reorganization Promotes Greater Accountability to Congress

The reorganization means that there will be, for the first time, a ngle person who can present a coherent account of the country's deelopment policies to Congress. And there will be for the first time a ngle person Congress can hold accountable for the effectiveness and nsistency of the program. Currently responsibility for presenting Congress requests for foreign assistance funds is scattered among a umber of agencies. State and AID prepare the foreign assistance bills r the bilateral program and for economic support funds. The State epartment defends before Congress bills for contributions to the UN evelopment organizations. The Treasury Department defends before ongress the bills for the multilateral development banks. The Department of Agriculture is responsible in Congress for Public Law 480, e Food for Peace Program.

The fact that there is no single spokesman before Congress for the hole of development policies and goals has prevented Congress from

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Exchange between Deputy Assistant Secretary of State Robert Hormats and World nk Policy Planning and Review Office Director Mahabub ul-Haq, Society for International elopment Conference on "Development Policy Choices for the 1980's," Washington, June 979. See further, Journal of Commerce, June 1, 1979, p. 2; Far Eastern Economic Re-w, May 25, 1979, pp. 6–7; New York Times, May 17, 1979, p. A 11.

Weintraub, *Challenge*, vol. 20, No. 1, March/April 1977, p. 17.

viewing foreign assistance programs on an overall basis, and fro making trade-offs and comparisons among different kinds of program in the authorization process. There is no single individual or agenc Congress can look to for informed knowledge about the way development funds supplied by the U.S. are being used. There is one pe son to be held accountable if the programs are not working. This Committee has expressed considerable concern about this problem in it recent study of U.S. participation in the multilateral developmen banks.[17]

The reorganization will help Congress understand and act on th government's overall foreign assistance program. The director o IDCA will play an active role in developing an overall budget for development within the Executive Branch by preparing for the President an annual development policy statement and budget covering al U.S. policies and programs significantly affecting the developin world. Once approved by the President, the statement will constitut broad policy guidance for the agencies as they prepare their specifi budget requests. IDCA will monitor these budget requests to ensur that they comply with this policy. The Director of IDCA will the lead the Administration's presentation of that budget request to Congress.[18] He will be able to testify as to how any one part of the development budget relates to any other part. He will be able to justify t Congress the balance between bilateral and multilateral aid propose by the President. Because IDCA has a broad mandate for ensurin balance among all the different bilateral and multilateral programs the head of IDCA will be able to speak to Congress with both knowledge and objectivity about the effectiveness of each particular program. And when problems arise in the implementation of the programs, Congress will have a single person to go to seek answers an changes.

E. Although Establishing a Separate Agency Is Key to an Effectiv Reorganization, It Will Not Impose Any Additional Costs

The reorganization establishes IDCA as a separate agency independent of the State Department. Although it will have direct contro over the budget and policy of AID and the Institute for Technologica Cooperation, IDCA will have an identity separate from either of thes component units. Apart from its authority over AID and the Institute IDCA will have substantial authority over U.S. participation in multilateral development organizations, and for setting overall development policies. These responsibilities significantly exceed the authorities AID now has, or will have, under the reorganization.

The establishment of such an agency separate from both the Stat Department and AID is an essential part of the reorganization. Separating IDCA organizationally from the day-to-day activities of implementing the U.S. bilateral assistance programs will leave it with the necessary time and, more importantly, the necessary breadth o vision, to carry out its important policy functions. IDCA will b charged, for example, with coordinating our bilateral and multilatera assistance programs, and weighing the competing needs and benefit of both approaches. In this role it will have to act as an "honest broker which cannot be too closely identified with either bilateral or multilateral aid, or too closely identified with one portion of the country's bilateral program to the exclusion of another part.

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[17] "U.S. Participation in Multilateral Development Banks," Commitee on Gover mental Affairs, Apr. 30, 1979. Pp. 11, 37–38.

[18] See Appendix A, p. 30 and Appendix B, p. 37.

Establishing IDCA as a separate agency, independent of the State Department, will also ensure that its judgment on a broad range of developmental issues will not be unduly influenced, or submerged altogether, under short-term foreign policy concerns. The establishment of IDCA as a separate, independent agency has the full support of the State Department.[10]

The goals of the reorganization could not be achieved by simply transferring the new authorities to AID without creating a new agency. As an administrative unit within the State Department, AID does not have the independence or the stature necessary to be a credible arbitrator of the development programs conducted by the different agencies. This is especially so if the State Department itself is one of the agencies which AID must "coordinate." And because AID is identified so closely with the bilateral assistance program, simply giving AID greater responsibility for U.S. participation in multilateral development projects would raise the danger that these different types of programs would not receive the necessary attention.

Failure to establish a separate IDCA would consign the development program to a subordinate status as a unit within the State Department. While the State Department is expert in the conduct of foreign diplomacy, it is not likely to place adequate priority on the conduct of development programs, or have the expertise necessary to ensure the effective and efficient administration of the programs. It is more likely to subordinate development concerns to short-term foreign policy considerations.

At the same time, the reorganization achieves the necessary separation of these policy functions from the State Department and from AID without any additional cost, or the addition of any new federal employees. The total size of the new agency will include no more than 30 to 50 professionals at the most. Only a net addition of three new positions will be required to direct the new agency. All other positions will be transferred from State, Treasury, or AID.

The actual cost of implementing the reorganization will also be absorbed by the agencies involved, so there will not even be a one-time cost for implementing the reorganization.

III. AREAS OF PARTICULAR INTEREST

During the course of the Committee's consideration of Reorganization Plan No. 2 the Administration made a number of changes, and issued a number of clarifications, concerning the nature of the proposed reorganization. This was done in testimony before the Committee, in additional documents submitted to the Committee, and in actual amendments to the plan itself. The most important portions of this material are reprinted in Appendixes A, B, C, and D of this report. The Committee relied upon these changes and clarifications when approving the reorganization plan. The following is a discussion of the major issues raised and the resolution of them.

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[10] See Appendix E, p. 36. See also Appendix B, p. 15.

A. *Relationship Between IDCA and the Treasury Department Concerning Multilateral Development Banks*

The President's message accompanying submission of the plan specifically stated that one of the aims of the plan was "to ensure that U.S. bilateral programs and the multilateral programs to which we contribute better complement each other." Since U.S. participation in the multilateral development banks is governed by an Executive Order delegating authority from the President, this part of the reorganization requires Presidential action apart from the submission of a reorganization plan. The Administration's original description of the necessary amendments to the applicable Executive Order, however, seemed to leave authority for both the developmental and financial aspects of U.S. participation in the multilateral development banks with the Treasury Department. There was no indication IDCA's advice on development issues arising in the multilateral development banks would be binding on the Treasury Department. (Appendix A, p. 2.)

At the hearings on the plan, the Administration agreed that IDCA's determination on the developmental aspects of issues before the Banks should be controlling unless Treasury finds that compelling financial, or express legislative requirements, require otherwise. The testimony is reprinted as Appendix B to this report. At the Committee's insistence, these additional commitment and clarifications were embodied in a Presidential directive provided the Committee before it considered the plan in open session. (See Appendix C.) The directive, which will be issued at the same time as the amendment to the applicable executive order, will be controlling on the agencies as they implement the reorganization.

The key paragraph in this Presidential directive will provide as follows:

> The Secretary of the Treasury will continue to instruct U.S. representatives to the MDBs [multilateral development banks]. The Director [of IDCA] shall advise both the Secretary and the U.S. representatives on development programs and policies, and on each development project of the MDBs. Given his position as principal development advisor to the President, the Director's conclusions with respect to the developmental merits of issues before the MDBs will normally be determinative, as provided below.
>
> The instructions issued by the Secretary of the Treasury will accord with those conclusions, except in such cases as the Secretary finds that compelling financial or other nondevelopmental reasons (in other words, express legislative requirements) require a different U.S. position. Differences between the Director and the Secretary may be submitted to the President for resolution.

The Committee acted favorably on the reorganization on the basis of this directive, and on the following statements by the Administration about the meaning and effect of this directive:

(1) Ambassador Owen on behalf of the Administration assured the Committee at its meeting on the plan May 22, 1979, that the directive would be signed, and that it would be signed by the President personally.[20] In response to a question at the hearing, the Administration assured the Committee that the directive will be issued in a form that will be binding on the agencies affected "until such time as altered or superseded by or at the direction of this or a future President." (Appendix B, p. 15.) The directive will be a permanent and public part of this reorganization, unless this President or a future President acts specifically to formally amend the order.

(2) The Treasury Department may override the developmental judgment of IDCA only for compelling financial reasons or compelling "other nondevelopment reasons (in other words, express legislative requirements)." The Committee expects that the category of cases falling under the term "financial" will relate to those basic issues of bank policy which will affect the financial stability of the bank. This would include overall policy questions about the lending programs of the bank which would significantly affect the ability of the bank to raise money in U.S. capital markets, and the ability of a country to pay a proposed loan back. Questions about the proper mix of development projects within a country or the effectiveness of a particular project on a country's overall development plans will be decided by IDCA. The phase "other nondevelopment reasons" refers only to those instances where an express legislative requirement compels the Treasury to act contrary to the way proposed by IDCA. To the knowledge of the Committee, there are only five different sections in three acts of Congress containing such applicable restrictions.[21] The term "other nondevelopment reasons" applies only to this limited category. IDCA will seldom be overruled on the grounds of these "other nondevelopment reasons." (See Appendix B, p. 14.)

The mere presence of a financial consideration, or the possible applicability of an express legislative requirement, will not be sufficient to override the conclusions of IDCA on the same matter. The Presidential directive requires that this only occur when these other considerations *compel* a different position. This should occur infrequently because IDCA's judgment is entitled to great weight as the agency charged with the primary responsibility for establishing overall development assistance, for coordinating international development activities, and for serving as the President's principal advisor on development matters. On the matter of commodity restrictions, IDCA will have broad responsibilities in this area anyway as an advisor to the President on trade matters affecting the developing world. IDCA, as well as Treasury, will be charged with knowledge of the applicable legislative restrictions in any event, and should already have assessed the relevance of these statutes when preparing a position for the United States in the first place. In the case of section 901 of Public Law 95–118, for example, section 6(c) of the plan transfers to IDCA the responsibility the State Department and the Treasury Department now have to file an annual report with Congress describing the progress made by the multilateral development banks in achieving certain goals. This includes the avoidance of projects that hurt U.S. producers of certain commodities.

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[20] "Senator Ribicoff. We have made the request both to the Secretary of State, and in the hearings that we held, that there would be a directive signed by the President stating the relationship between the IDCA Director, the Secretary of State, and the Secretary of the Treasury. I am assuming, Henry, that that is going to be done.

"Ambassador Henry Owen. Yes, sir."

Committee on Governmental Affairs, May 22, 1979, p. 10 of transcript of Committee meeting.

[21] The applicable legislative restrictions are: Section 701(a), 701(b)(1), (3) and (4), and section 901(a) of Public Law 95–118 (human rights, terrorism, accounting of MIAs, nuclear non-proliferation and commodities); sections 21 and 22 of Public Law 92–246 (expropriation and drug abuse); and section 609 of Public Law 95–481 (surplus commodities).

(3) Since the Director's conclusions with respect to the developmental issues before the multilateral development banks may not be changed on developmental grounds by the Treasury, the Presidential directive states that ". . . the Director's conclusions with respect to the developmental merits of issues before the MDBs will normally be determinative, as provided below." The reference to the word *normally* in the Presidential directive is solely intended to refer to those unusual cases where the Secretary finds that compelling financial or express legislative requirements require a different U.S. position. (See Appendix B, p. 14.)

(4) IDCA will have the responsibility to monitor the development of each proposed report from the beginning. It is when the host country and the bank are first formulating a proposed plan that input from the United States is most likely to be effective. In addition, IDCA will review each loan when it is formally submitted for approval and prepare for each proposl a full U.S. position on the loan, which would be determinative unless the Treasury changed it for compelling financial reasons or because of express legislative requirements to the contrary. (Appendix B, p. 14)

(5) IDCA will have the additional responsibility to take the lead, in consultation with Treasury, for evaluating the effectiveness of the programs and individual development projects of the banks. For example, section 125(b) of the Foreign Assistance Act of 1961, as amended, provides that the President shall report on actions taken by the international financial institutions and the United Nations Development Program to improve the evaluation of projects and programs conducted by these institutions. Since this authority is vested in the President it will be delegated to the Director of IDCA by Executive Order. The IDCA Director will exercise it in consultation with the Treasury Department. (See Oppendix D, p. 26.) The lead responsibility of IDCA for such evaluations was confirmed by the Administration in statements to this Committee. (Appendix B, p. 18.)

(6) IDCA will have the choice of being represented on all U.S. delegations conducting replenishment negotiations concerning U.S. contributions to the multilateral development banks. This includes the right of IDCA to participate in all the various working groups within the executive branch considering replenishment issues. (Appendix B, p. 37. IDCA will have a "principal role" in these interagency considerations of Treasury budget proposals. (Appendix B, p. 12 and Appendix C, p. 25.) IDCA will include the programs and budgets of the multilateral development banks in its comprehensive review and analysis of the foreign assistance program, and will coordinate the Administration's presentation of the budget request for the banks to the Congress. (Appendix C, p. 53.)

(7) The Treasury Department and IDCA will consult in advance about the selection of both the Executive Director and the Deputy Executive Director of the multilateral development banks. If the two agencies cannot agree, there will be a referral of both names to the President. After a Presidential resolution of the differences, the President will in each case make the appointments, except in the one case of the African Development Fund where the formal appointment authority is vested by statute in the Treasury Department. (Appendix B, p. 37 and Appendix C, p. 53.)

(8) The authority of the Treasury Department to instruct U.S. representatives to the multilateral development banks is substantially reduced by this new arrangement. Treasury, however, will continue in a formal sense to be the conduit to the Executive Director of U.S. instructions. Only in this formal sense is the authority of the Treasury not diminished by the organization. (Appendix B, p. 37.)

B. Relationship Between IDCA and the State Department Generally

IDCA will be established by the reorganization plan as an independent agency in the executive branch that will report directly to the President. The plan as originally submitted, provided in section 2 that the Director of the agency shall also report to the Secretary of State on all matters. Subsequently the plan was amended by the President to provide that the Director of IDCA shall report to the Secretary of State only on foreign policy matters. (Appendix A. p. 30.) The Director will not report on all matters to the Secretary of State as AID now does. The Secretary of State may now revise the budget proposals of AID. IDCA will submit its budget directly to OMB. The Administration stated "IDCA will consult with the Secretary of State regarding the entire IDCA budget, but State will not control the budget, and cannot change it." (Appendix B, p. 37.)

Although the Director of IDCA shall remain subject to the foreign policy guidance of the Secretary of State, the Committee expects that considerable care will be exercised by the State Department when invoking this authority. Such care should be exercised in order to protect the separate and distinct developmental perspective of IDCA which the reorganization seeks to ensure.

C. Role of IDCA in International Organizations

The reorganization will vest with IDCA lead budget and policy responsibility for U.S. participation in the UN Development Program, UNICEF, the World Fund Program, the UN Disaster Relief Organization, the Organization of American States Technical Assistance Funds, UN Capital Development Fund, the UN Educational and Training Program for Southern Africa, and FAO Post-Harvest Losses. This alters current arrangements by which AID only advises the State Department on U.S. participation in these international organizations. The relevant Executive order will specify that the responsibility of IDCA in this area includes, in addition to the 8 named programs or organizations, "any other international programs whose purpose is primarily developmental." (Appendix D, p. 55.) The lead responsibility of the IDCA in the area of international organizations will include, according to the Administration, serving as "the decision point in determining U.S. policies" regarding these international organizations and programs. It will determine the level of budget requests

for the specified U.S. voluntary contributions. It will have the final responsibility for recommending to the Secretary of State the membership and composition of U.S. delegations to governing bodies and other meetings of these international organizations. The State Department will continue its day-to-day representational functions in these international organizations and programs and provide back-up support. However, this day-to-day role of the State Department will be subject to IDCA policy direction and will be conducted in consultation with IDCA. (Appendix B, p. 37.) IDCA will have the final authority to instruct the U.S. delegation to a meeting of each of the organizations regardless of who heads the delegation. (Appendix B, p. 37.

D. Role of IDCA in Establishing Overall Development Policy

Section 2 of the Reorganization Plan was amended at the request of the Committee to make IDCA the advisor to the President not just on international development matters, as the original plan provided, but also on "all trade, science and technology, and other matters significantly affecting the developing nations." Section 2 of the plan further specifies that "the Director shall have primary responsibility for establishing overall development assistance policy and coordinating international development activities supported by the United States."

IDCA will have access to, and an opportunity to participate fully in, any executive branch meetings and committees when necessary to effectively carry out its role as an advisor to the President on matters significantly affecting the developing world. (Appendix B, p. 37.) The Administration testified that the Director of IDCA will "become a member of a variety of formal and informal policy councils including, besides the DCC [Development Coordination Committee] the National Advisory Council on International Monetary and Financial Policies (NAC), and the Trade Policy Committee. In addition, the Director can expect to be invited to attend cabinet meetings when development issues are under discussion, and will participate in Policy Review Committee discussions involving foreign assistance issues." (Appendix B, p. 37.) In further explanation to the Committee, the Administration stated that "IDCA will be made a member of those policy councils having an important impact on developmental issues." (Appendix B, p. 37).

IDCA will have broad authority through the budget process for establishing and enforcing an overall development policy applicable to all federal agencies. The Director of IDCA will be responsible for preparing an annual development policy statement covering all U.S. policies and their budgets having a major impact on the developing nations for submission to the President. (Appendix B, p. 37.) The Administration further stated that if "approved by the President [this annual development policy statement] would serve as general guidance to the involved agencies in preparing their budget requests and managing their program." (Appendix B, p. 37.) The Administration further explained that "this assessment will constitute broad budget guidance, provide an analytical basis for the Executive branch's presentation to the Congress, clarify the nature and priority of U.S. development goals, and better ensure the consistency of U.S.

actions with those goals." (Appendix B, p. 37.) IDCA will have the further responsibility of monitoring the actual budget requests of the other agencies to ensure that they conform with the broad guidance provided in the annual development policy statement as approved by the President, and to comment to OMB on such budget requests of other agencies. (Appendix B, p. 37.) IDCA will lead the Administration's presentation to the Congress of the comprehensive foreign assistance budget. (Appendix A, p. 30.)

The head of IDCA as Chairman of the Development Coordination Committee will be the official responsible for establishing the exact nature and structure of any interagency coordination efforts he concludes necessary. The Executive Order to be issued upon implementation of the reorganization shall specify that, as Chairman of the Development Coordination Committee, the head of IDCA may establish subcommittees of the committee and designate the chair of each of the subcommittees. (Appendix B, p. 37 and Appendix D. p. 55.) The director of IDCA will decide on the number, jurisdiction and chairing of all subcommittees, including, for example, the subcommittees on multilateral aid and on food aid policy.

E. Agency for International Development

AID will constitute the largest component within IDCA. The Director of IDCA will control the budget of AID, make recommendations to the President concerning the appointment and tenure of senior AID officials, and give policy direction to AID programs to the extent necessary. (Appendix B, p. 37.) AID will maintain, however, its individual identity and substantial day to day operating autonomy. (Appendix B, p. 37.)

The reorganization provides IDCA with an important opportunity to revitalize and reshape the operations and thinking of AID. It is essential that IDCA do so. It will be the responsibility of IDCA to ensure that AID personnel become fully aware of the overall responsibilities of IDCA for U.S. participation in multilateral development assistance programs, and for other aspects of development policy. IDCA will have to see that in the future AID devotes more time to cross-program reviews. IDCA will have to see that in the future AID improves its ability to conduct macro analysis of national economies and national development plans.[22] For IDCA to succeed, AID must supply valuable advice and expertise to the Director of IDCA, serving as his eyes and ears in connection with IDCA's responsibilities for U.S. participation in the multilateral development banks, the UN development agencies, and in other areas. AID will have to play this role in both the capitals of the developing countries, and in the field.

F. Overseas Private Investment Corporation

The reorganization largely preserves the current status of the Overseas Private Investment Corporation (OPIC). Currently OPIC is run by a board of 6 private citizens and 5 representatives of the government. By statute, AID is now Chairman of this board. Since AID will become a unit within the new IDCA, the reorganization plan substitutes the Director of IDCA, for the AID Administrator, as the

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[22] In his testimony before the Committee, Comptroller General Staats stated "A major need seems to be the reconstitution of the U.S. capability for macro analysis of national economies and national development plans."

Chairman of the Board. Otherwise the status of OPIC is largely unchanged by this reorganization. This is especially so since OPIC, as a profit making government corporation, is not subject in a normal sense to the regular budget process. Even if there were a budget request for OPIC, IDCA could comment on the budget but it could not control it in the way that it will be able to control the budget of AID or the Institute for Technological Cooperation. (Appendix B, p. 37.)

By approving the reorganization plan, the Committee does not intend thereby to prejudge whether OPIC should be included within any reorganization of this government's trade and investment functions. The Committee now has pending before it a bill S. 377, to establish a new Department of International Trade and Investment which would transfer OPIC to the new trade department. The Committee intends to examine the question thoroughly in connection with its consideration of the trade reorganization proposals.

G. The Institute for Technological Cooperation

Separate legislation approved by the Committee on the same day as consideration of this reorganization plan directs the President to establish an Institute for Technological Cooperation. This legislation is contained in title II of S. 588, the International Development Assistance Act of 1979.[23] If established, the Institute would provide research money for scientists in this country and in the Third World to develop scientific and technological knowledge especially applicable to conditions in developing countries.

It is the Committee's expectation that the new Institute will be part of IDCA in the same manner as AID. The Presidential message accompanying submission of Reorganization Plan No. 2 stated that if legislation authorizing the Institute becomes law the President intends to delegate to the Director of IDCA the authority in the legislation to establish an Institute for Technological Cooperation. The IDCA Director would redelegate these functions as appropriate to the Institute. (Appendix A, p. 30.) The Presidential message further states that the IDCA Director would establish and control the budgets and policies of the Institute. He would make recommendations to the President concerning the appointment and tenure of the Institute Director. (Appendix B, p. 37.) The Administration further testified before this Committee that if the appropriate legislation is enacted, the Institute would be established within IDCA "much on the AID pattern. ISTC will have clear day-to-day operating autonomy within the framework of basic policies and overall budget established by the IDCA Director." (Appendix B, p. 37.)

IV. HISTORY OF THE PROPOSAL

Shortly after the death of Senator Hubert Humphrey, Senator Sparkman introduced with 20 cosponsors on February 2, 1978 a bill formulated by Senator Humphrey to establish an International Development Cooperation Administration.

Congress did not act on the Humphrey bill (S. 2420) during the remainder of the 95th Congress, but in the conference report accompanying the International Development and Food Assistance Act of 1978 it suggested that the President:

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[23] S. 588 was reported favorably by the Senate Foreign Relations Committee on May 11, 1979, and by this committee on May 22, 1979. The companion House bill, H.R. 3324, passed by the House on April 10, 1979, contains a similar title creating the Institute.

> Consider establishing an International Development Cooperation Administration, to supersede the Agency for International Development, which would have, subject to the foreign policy guidance of the Secretary of State, primary responsibility within the U.S. Government for coordination of international development—related activities and which would have within its organizational framework the maximum possible range of U.S. Government agencies and programs related to international development.

The Act specifically required the President in section 303 to report to the Congress "not later than February 1, 1979," on the steps he has taken to strengthen the administration and coordination of economic assistance programs.

In response to that requirement, Reorganization Plan No. 2 was submitted by the President on April 10, 1979. The required resolution of disapproval, S. Res. 140, was introduced the next day the Senate was in session, April 23, 1979, and referred to this Committee.

The Committee held hearings on May 1, 1979. The Committee heard testimony from the Administration. Appearing before the Committee were Ambassador Henry Owen, Special Representative of the President for Economic Summits, National Security Council; and Peter Szanton, Associate Director, Organization Studies, Office of Management and Budget. Also testifying was Elmer Staats, Comptroller General of the United States, and Sidney Weintraub, Senior Fellow, Brookings Institution, former Assistant AID Adminstrator for Interagency Development coordination; and former Deputy Assistant Secretary of State for International Finance and Development.

On May 21, 1979, the President formally submitted various amendments to the plan.

The amendments submitted by the President:

> Revised section 2 of the plan to limit the requirement that the Director of IDCA report to the Secretary of State. The original wording required the Director of IDCA to report to the Secretary of State, as well as the President, on all matters. As amended, the requirement only applies to foreign policy matters.
>
> Revised the language in section 2 specifying that the director of IDCA "shall serve as the principal advisor to the President and the Secretary of State on international development matters." The amendment broadened the authority of IDCA by the addition of language stating that the IDCA director ". . . also shall advise the President on all trade, science and technology, and other matters significantly affecting the developing nations."
>
> Made additional conforming changes in the wording of section 2.
>
> Amended section 5 to make it clear that the Director had no authority to reorganize or abolish organizational units within the agency if the unit was established by statute or reorganization plan.

> Expanded the statutory authorities transferred to the IDCA Director pursuant to section 6 of the plan and made other, technical changes in the wording of the section. The amendments limited to foreign policy guidance the authority of the Secretary of State under section 101(b) of the Foreign Assistance Act of 1961 to give guidance to IDCA. It also added a provision transferring to IDCA responsibility under section 602 of the International Security Assistance and Arms Control Act of 1976 concerning the role of small business in carrying out the Foreign Assistance Act, and over section 239(i) of the Foreign Assistance Act, concerning assistance to OPIC in developing evaluation criteria.

The Committee met to consider the proposal in open session on May 22, 1979.

By a vote of 10 to 3, including proxies, the Committee indicated its support of the plan, as amended, by ordering Senate Resolution 140, disapproving the plan, to be reported with the recommendation that it not be approved.

V. SECTION-BY-SECTION ANALYSIS OF THE PLAN, AS AMENDED

Section 1.—This section establishes the International Development Cooperation Agency (IDCA) as an independent agency in the Executive Branch.

Section 2.—This section specifies that the new agency shall be headed by a Director, appointed by the President and confirmed by the Senate, and compensated at level II of the Executive Schedule. The section further specifies that the Director shall have primary responsibility for establishing overall development assistance policy and for coordinating international development activities supported by the United States. The Director would be the principal advisor to both the President and the Secretary of State on development matters, and also shall advise the President on all trade, science and technology and other matters significantly affecting developing nations. The Director shall report to the President and, on matters relating to foreign policy, to the Secretary of State. On matters not relating to foreign policy, the director of IDCA shall report only to the President. The director would designate the order in which IDCA officials subordinate to the Director and Deputy Director will be authorized to act for the Director or Deputy Director in their absence, or in the event both such offices are vacant.

Section 3.—This section authorizes the appointment by the President of a Deputy Director who would be subject to Senate confirmation and compensated at level III of the Executive Schedule. The Deputy Director will perform such duties as the Director prescribes.

Section 4.—This section authorizes the appointment by the President of two Associate Directors, to be subject to Senate confirmation and compensated at level IV of the Executive Schedule.

Section 5.—This section gives the Director the authority to establish, alter, consolidate or discontinue organizational units within IDCA, other than units expressly established by statute or reorganization plan. Further, the Director has the authority to delegate to any officer or unit of the Agency, or other agency, responsibilties vested in him or the Agency.

Section 6.—This section transfers specified authorities and functions contained in the Foreign Assistance Act and other legislation to the Director of IDCA. The section concerns those authorities and functions in the Foreign Assistance Act and related legislation that are vested in the Agency for International Development, the Administrator of the agency, or the State Department. In addition statutes now vest in the President a large number of other powers and authorities. These will be delegated to IDCA by executive order as described further below.

The statutory functions and authorities to be transferred to the director of IDCA under section 6 of the plan are as follows:

Functions Transferred from AID or its Administrator

Section 101(b) of the Foreign Assistance Act of 1961 (FAA).—This subsection provides that AID shall be responsible for coordinating all United States development related activities. This important authority is transferred by the plan to the Director of IDCA.

Section 119 of the FAA.—This section now authorizes the President to furnish assistance to developing countries in the area of energy production and conservation, and specifies that the Administrator of AID shall coordinate implementation of the provision with the Department of Energy. Because both AID and the proposed Institute for Technological Cooperation will have programs in the energy area, this section is transferred to the IDCA Director (who could, as appropriate, delegate the authority to AID or the Institute).

Section 125 of the FAA.—Section 125(a) now directs the Administrator of AID to improve the assessment and evaluation of the programs under his jurisdiction. This function is transferred to the Director of IDCA by the plan.

Section 233(b) of the FAA.—The section establishes the Board of Directors of the Overseas Private Investment Corporation and provides that the Administrator of AID be the ex officio chair of the OPIC board. Under the reorganization, the Director of IDCA would become the ex officio chairman of the board.

Section 239(i) of the FAA.—The existing section provides that the Corporation shall prepare and maintain for each investment project a development impact profile appropriate to measure the projected and actual effects of such projects on development in consultation with AID. Under the reorganization the consultation would hereafter be with IDCA.

Sections 296(e), 297(d), 298(c)(6) and 299(d) of the FAA.—These sections are part of title XII of the Foreign Assistance Act. Title XII is designed to support programs that [illegible]nt famine and promote freedom from hunger by strength[illegible] capacities of U.S. land grant and other eligible unive[illegible]deal with these problems. The program created by the [illegible]ions is to be administered by the President, acting through [illegible]dministrator of AID. The existing provisions establish a Board for International Food and Agriculture Development to advise the Administrator of AID and create a number of related authorities and functions. Under the reorganization plan, the title XII functions and authorities now in the AID Administrator or in AID would be transferred to IDCA.

Section 531(a)(2) of the FAA.—This section now specifies that the Secretary of State shall be responsible for policy decisions and justifications regarding the Economic Support Fund and that he shall exercise this responsibility in cooperation with the Administrator of AID. The transfer of the AID function to IDCA will mean that the Secretary of State, while continuing to exercise his responsibilities in regard to the supporting assistance program, will do so henceforth in cooperation with the Director of IDCA.

Section 601(a) through (d) of the FAA.—These provisions speak generally to the encouragement of free enterprise and free labor unions, and other goals to be achieved in connection with international development. The functions expressly vested in AID, all of which would be transferred to the IDCA Director, include the appointment of members of an International Private Investment Advisory Council on Foreign Aid, the management and receipt of recommendations from that Council, and the encouragement of the utilization of engineering and professional services of United States firms in connection with capital projects financed by the Foreign Assistance Act.

Section 601(e)(2) of the FAA.—This section requires the Administrator of AID to include material in the congressional budget presentation regarding competitive selection procedures. This responsibility is transferred to the Director of IDCA pursuant to his responsibilities for the overall congressional presentation on development assistance. Since AID will retain primary responsibility for the day-to-day operation of IDCA's bilateral assistance programs, the general requirements for competitive bidding contained in section 601(e)(1) are not transferred.

Section 624(f)(2)(C) of the FAA.—The existing section established mechanisms for dealing with human rights concern and provides that the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall make recommendations to AID regarding compliance with sections 116 and 502(b) of the FAA, both of which deal with U.S. policy on human rights. Under the reorganization, the Assistant Secretary would instead make these recommendations to the Director of ICDA.

Section 640B of the FAA.—This section establishes procedures for the effective coordination of foreign assistance programs and establishes the Development Coordination Committee (DCC), under the chairmanship of the AID Administrator, to advise the President with respect to the coordination of U.S. policies and programs affecting the development of developing countries. The reorganization plan transfers the chairmanship of the DCC from the AID Administrator to the IDCA Director.

Section 407 of the Agriculture Trade Development and Assistance Act of 1954 (Public Law 480).—This section now provides the establishment of an inter-agency advisory committee to deal with policy issues pertaining to the administration of the Public

Law 480 program. The Administrator of the Agency for International Development is currently designated a member of this committee; the transfer would replace him with the Director of the IDCA.

Section 706 of the Foreign Relations Authorization Act fiscal year 1979.—This section now provides that funds appropriated to AID and the other foreign affairs agencies may be used to pay for transportation outside of the United States on foreign-owned air carriers. The transfer would, in effect, add IDCA to the list of eligible agencies; since AID would be a component of IDCA, it would retain its existing eligibility.

Section 602 of the International Security Assistance and Arms Control Act of 1976.—This section currently requires the Administrator of AID to take certain actions to support U.S. small business in carrying out the Foreign Assistance Act. It requires AID to file a report every six months on the extent small businesses have participated in procurements under the Foreign Assistance Act. The plan transfers responsibility for carrying out this provision to the Director of IDCA.

Functions Transferred from the Secretary of State

Section 101(b) of the FAA.—This section now authorizes the Secretary of State to give "policy guidance" to the agency with primary responsibility within the U.S. government for coordinating all U.S. development related activities. The plan, as amended, limits the authority of the Secretary of State to give IDCA such "policy guidance", so that henceforth it shall apply only to guidance on foreign policy matters.

Section 622(c) of the FAA.—Section 622(c) currently provides that the Secretary of State shall be responsible for the continuous supervision and general direction of the economic and military assistance programs. The plan transfers this responsibility to the Director of the IDCA insofar as it relates to development assistance. Responsibility for the Economic Support Fund and military aid remains with the State Department.

Section 901 of Public Law 95–118.—This section sets forth U.S. policy regarding lending priorities of multilateral development banks, emphasizing fulfillment of food and nutrition needs. It also requires the U.S. to oppose any loan or other financial assistance for producing for export certain specified commodities if such loan or assistance will cause injury to U.S. procedures. An annual report to the Congress on progress towards achieving the goals of the provision is required from the Secretaries of State and Treasury. The plan, in recognition of the role of the IDCA director, will transfer to him State's responsibilities for the report, thus making it a joint IDCA-Treasury function.

The reorganization plan itself transfers only those functions and authorities that currently are vested by statute in a designated agency or a Government official other than the President. Most of the remaining authorities of the Foreign Assistance Act of 1961, the Bretton Woods Agreements Act, and other foreign assistance legislation, are vested in the President rather than a particular agency or official, and are delegated by him to Treasury, State, AID and other involved agencies. Many of these authorities will be placed in IDCA by Executive Order.

For example, AID is now an administrative unit within the State Department. It is an agency established with authorities flowing from the President to the Secretary of State by executive order, and then to the Administrator of AID by secretarial delegation. When IDCA is created, the President will delegate those authorities by Executive Order to the Director of IDCA. He will instruct the IDCA Director to establish within IDCA the Agency for International Development. Authorities now delegated to AID through State may instead be redelegated to AID by IDCA.

Authority over the multilateral development banks is vested in the President under the Bretton Woods Agreements Act (22 U.S.C. 286 *et seq.*). The authority to instruct U.S. Executive Directors of the multilateral development banks is delegated to the Secretary of the Treasury by section 3(a)(1) of Executive Order 11269; this Order also establishes the National Advisory Council on International Monetary and Financial Policies (NAC). To implement the reorganization, the President will amend Executive Order 11269 and issue a Presidential directive describing the determinative role of IDCA on developmental matters. The amended executive order will also formally make IDCA a member of the National Advisory Council on International Monetary and Financial Policies.

Attached in Appendix D are the proposed new Executive Orders, which the Administration will issue to implement the plan.

The basic authority for U.S. contributions to the international organizations and programs will be delegated to IDCA by Executive Order. The remaining role for the State Department in these organizations will be based on funding reallocations by IDCA and other administrative arrangements between IDCA and State.

In addition to its major statutory authorities and powers, OPIC exercises a few miscellaneous authorities relating to administrative and personnel matters under section 2(a) of the Foreign Assistance Act. These authorities, vested in the President, have been delegated by the President to OPIC, in addition to other agencies, pursuant to Executive Order 11579. These authorities will now be delegated, along with other similar authorities, to IDCA which will redelegate them to OPIC, among others. The administrative authorities which will be so redelegated to OPIC are as follows:

Section 621(b) of the FAA.—Authority to issue regulations governing suspension of foreign assistance funds for fraud, bribery or other misconduct, and to set conditions for reinstatement.

Section 625(d)(1) of the FAA.—Authority to hire under Foreign Service Act authorities for service outside the United States.

Section 627 of the FAA.—Authority to detail personnel to foreign governments;

Section 628 of the FAA.—Authority to detail personnel to international organizations;

Section 629(b) of the FAA.—Authority to prescribe regulations governing allowances for individuals detailed under sections 627 and 628;

Section 630 of the FAA.—Authority to approve acceptance of funds from foreign governments or international organizations in reimbursement of services provided under sections 627 and 628; and

Section 635(d) of the FAA.—Authority to accept and use gifts and bequests.

Section 7.—This section would abolish one of the 12 executive level positions authorized for Presidential appointment in AID. The position expected to be abolished is that of Assistant Administrator for Intragovernmental and International Affairs, a level IV post; most of the functions of this official will be assumed by IDCA.

Section 8.—This section provides for necessary transfers of personnel, property, and appropriations to reflect transfers of functions in connection with the establishment of IDCA. The President may designate individuals to exercise for up to 60 days the authorities of the Director, Deputy Director, or Associate Director of the Agency, and compensate them for such service.

Section 9.—This section makes the plan effective July 1, 1980, or at such earlier time or times as the President shall specify. No part of the plan could become effective sooner than permitted under 5 U.S.C. 906, which would be (1) 60 calendar days after transmission of the plan to the Congress (recesses of more than three days excepted) or (2) the date when both Houses of Congress have defeated resolutions of disapproval, whichever is earlier.

VI. Estimated Cost

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. The Congressional Budget Office estimates that there will be no significant cost incurred by the government as a result of enactment of this Reorganization Plan.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., June 1, 1979.

Hon. Abraham A. Ribicoff,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the Reorganization Plan No. 2 of 1979, as amended, a reorganization plan to consolidate certain foreign assistance activities of the United States Government, pursuant to 5 U.S.C. 903.

Based on this review, it appears that no significant cost will be incurred by the government as a result of enactment of this legislation.

Sincerely,

Robert D. Reischauer,
(For Alice M. Rivlin, Director).

VII. MINORITY

The principal purpose of Reorganization Plan 2, which woul create an independent International Development Cooperation Agenc (IDCA), is to provide for greater coordination of U.S. overseas devel opment programs and a stronger voice for those with developmen expertise. We do not question these goals. However, we do questio the need to create another independent agency to achieve these goal Therefore, we voted against this plan.

First, let us look at the components of this new agency. The IDC Director will have real authority over only one of these component the Agency for International Development (AID). The other tw components—the Overseas Private Investment Corporation (OPIC and the yet-to-be-created Institute for Scientific and Technologic Cooperation (ISTC)—would be sufficiently autonomous that th would be part of IDCA in name only. Moreover, OPIC has little rel tionship to development and rightfully belongs in a Department Trade, if one is created. This opinion is shared by many, including t Chairman of this Committee. If the Peace Corps were transferred IDCA, it, too, would be autonomous. As a result, what this agen will be, in reality, is a super-AID, with an additional layer of 30 50 professionals at its top.

It is claimed that the IDCA Director will have other functions a authority, specifically the role as the chief development spokesm and policy coordinator, lead responsibility for budget support a policy concerning U.S. participation in development-oriented intern tional organizations, and development-related responsibility in U participation in the multilateral development banks (MDBs), inclu ing a voice in tthe selection of the U.S. Executive Directors to t MDB's.

However, the AID Administrator already has been given many these functions by Presidential mandate, and in those areas where authority is unclear, clarification is possible. The AID Administrat is presently designated as the chief advisor to the President and Secretary of State on development policy and as the chief spok man for development assistance before the Congress. The AID Adm istrator is presently responsible for advising the Secretary of St on U.S. participation in international organizations. The AID Adm istrator is presently responsible for advising the Secretary of Treasury on the development aspects of U.S. partcipation in MDBs. And, the AID Administrator chairs the Development ordination Committee (DCC), which was created to perform the sa interagency coordinating functions which IDCA is being create perform. The authority of the DCC Chairman is not significantly than would be that of the IDCA Director, who under the reorgani tion would replace the AID Administrator as head of the DCC

Second, we fail to see what of significance would be accomplished by this reorganization which could not be accomplished within the present structure. It is claimed that an independent development agency is needed to bring development concerns to bear on the decisionmaking process with regard to U.S. participation in the MDB's. We sympathize with this goal, but it can be achieved without creating IDCA. It is important to note that in this regard, AID will actually do the work. A new top layer of bureaucracy will not help AID do this job any better. Instead, we should be taking steps to strengthen the ability of AID to meet these responsibilities.

Third, the IDCA Director would have the authority to report directly to the President in disputes with either the State or the Treasury Departments. The President already has too many people reporting to him, and the attention which he can give to any particular issue is being stretched dangerously thin. At a time when the President needs to be devoting more time to pressing domestic issues, such as energy and the economy, we cannot affort to burden him with interagency disputes on development issues.

Fourth, it is naive to think that development can be truly independent from foreign policy considerations. In fact, the reorganization plan mandates "consultation" on foreign policy between the Secretary of State and the IDCA Director. All of our development activities should be undertaken within the context of our overall foreign policy. There are enormous worldwide needs for foreign aid, but we only have limited resources to devote to this purpose. We are told that, under the present structure, development is often the victim of short-term foreign policy considerations. While it is certainly desirable that this type of disruption in our foreign aid effort be minimized, the record clearly shows that it is Congress which most often exercises its prerogative to place conditions on the dispensation of foreign assistance. Only the cooperation and good faith of the parties concerned, and not box shuffling, will resolve this situation.

We have long been supporters of government reorganization when it makes sense. But when the same ends can be reached by working within the existing structure, this is clearly preferable. This reorganization would simply add a new layer of ever-expanding bureaucracy and place new pressures on an already overburdened President—not to mention the inevitable disruption associated with any reorganization. When reorganization would actually serve to slow progress towards concrete improvements, it should be staunchly opposed.

CHARLES PERCY.
WILLIAM COHEN.
DAVID DURENBERGER.

APPENDIX A—REORGANIZATION PLAN No. 2 OF 1979

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING PLAN NO. 2 OF 1979

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1979, to consolidate certain foreign assistance activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code, and pursuant to title III of the International Development and Food Assistance Act of 1978, which requires that I report to the Congress my decisions on reorganization in this area. The purposes of this reorganization are to make more coherent our economic policies and programs affecting the developing nations and to improve the effectiveness of United States foreign development activities.

This Nation is committed—not only in the interest of the people of developing countries, but in our own interest as well—to help those countries in their efforts to achieve better lives for their citizens. To this end, we conduct a number of bilateral development assistance programs, participate in a number of multilateral development assistance programs, and engage in a variety of other economic activities that affect developing countries.

When this Administration took office, United States support of international development suffered from four major problems. First, no single U.S. official was charged with responsibility for establishing a comprehensive and coherent strategy for our Nation's efforts in this field. Second, no agency or official had the authority to ensure that the various U.S. programs affecting development were consistent with each other or complemented the programs of the multilateral organizations to which we contribute. Third, none of the agency heads testifying before the Congress about his particular portion of our foreign assistance efforts was able to speak authoritatively for the program as a whole or for the Administration's overall development policies and priorities. Finally, because there was no authoritative spokesperson, developmental concerns were at times accorded insufficient weight in executive branch decision-making on trade, monetary, and other non-aid economic issues that affect developing nations.

Just before his death a year ago, Senator Hubert H. Humphrey prepared a bill intended to solve these problems. Congressman Clement Zablocki introduced a similar measure in the House. Although the Congress took no action last year on the organizational provisions of the Humphrey-Zablocki bill, it directed me, in title III of the 1978 Development Assistance Authorization Act, to institute a strengthened system of coordination of U.S. economic policies affecting the developing countries, and urged me to create an agency with primary responsibility for coordination of international development-related activities.

In response to the Humphrey-Zablocki bill and the Administration's own analyses. I took a number of steps last year to strengthen aid coordination and improve the effectiveness of our development assistance programs. The Reorganization Plan transmitted with this message continues that process. It will provide stronger direction of U.S. policies toward the developing world, ensure a more coherent development strategy, promote the more effective use of the various U.S. bilateral instruments by which the U.S. can encourage economic and social progress in developing countries, and ensure that U.S. bilateral programs and the multilateral programs to which we contribute better complement each other.

This reorganization would create a new agency, to be known as the International Development Cooperation Agency (IDCA). IDCA would become a focal point within the U.S. Government for economic matters affecting U.S. relations with developing countries. Subject to guidance concerning the foreign policy of the United States from the Secretary of State, the IDCA Director would be the principal international development advisor to the President and to the Secretary of State. The Director would replace the AID Administrator in chairing the Development Coordination Committee. The IDCA Director would make recommendations to me concerning the appointment and tenure of senior officials of each component of IDCA, and would establish and control the budgets and policies of the Agency for International Development and the bilateral foreign assistance programs it administers, and of the Institute For Technological Cooperation, proposed in legislation transmitted to the Congress on February 26, 1979, which would support research and technological innovation to reduce obstacles to economic development.

The Overseas Private Investment Corporation, which insures and guarantees U.S. private investments in developing countries against certain hazards, would also be a component of IDCA, but OPIC's Board of Directors, which the IDCA Director would chair, would continue to set OPIC policy.

Each of these agencies would retain its individual identity and substantial day-to-day operating autonomy. A principal responsibility of the IDCA Director—who would be supported by a small staff—would be the achievement of consistency and balance among the policies, major programs, and budgets of the component agencies.

To help insure that U.S. bilateral efforts and the programs of major multilateral development institutions better complement each other, the IDCA Director would participate in the selection of U.S. Executive Directors of multilateral development banks (World Bank Group, Inter-American Development Bank, Asian Development Bank and African Development Fund), and, would advise these Executive Directors on development policy and proposed projects and programs. Additionally, IDCA would assume lead responsibility for budget support and policy concerning United States participation in those organizations and programs of the United Nations and the Organization of American States whose purpose is primarily developmental. These are the UN Development Program, UNICEF, the Organization of American States Technical Assistance Funds, the UN Capital Development Fund, the UN Educational and Training Program for Southern Africa, the UN/Food and Agriculture Organization (FAO)

World Food Program, the FAO Post-Harvest Losses Fund, and the UN Disaster Relief Organization.

The IDCA Director would be responsible for insuring that development goals are taken fully into account in all executive branch decision-making on trade, technology, and other economic policy issues affecting the less developed nations, and would submit an annual development policy statement to the Congress. The Director would also prepare a comprehensive foreign assistance budget, which he would submit to the Office of Management and Budget after consulting with the Secretary of State, and would lead the Administration's presentation of that budget to the Congress.

When IDCA is established, I intend to delegate to it the principal authority for the bilateral development assistance program administered by AID (now vested in me by law, delegated to the Secretary of State, and redelegated to the Administrator of AID). Certain functions vested in me under the Foreign Assistance Act will continue to be delegated to the Secretary of State, Secretary of the Treasury, Secretary of Defense, or elsewhere; but most functions relating to the assistance program will be delegated directly to the IDCA Director, who will in turn redelegate these functions, as appropriate, to the Administrator of AID. I also intend to delegate to the Director of IDCA authority proposed to be vested in me to establish an Institute For Technological Cooperation; the IDCA Director would redelegate these functions, as appropriate, to IFTC.

The reorganization would increase program effectiveness through improved coordination, as requested in the 1978 authorization act. I estimate that it would achieve that goal with no increase in expenditures or personnel. After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. This plan abolishes one of the statutory officers that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)). No statutory functions are abolished by the plan. The provisions in this plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of IDCA have been found by me to be necessary by reason of the reorgaization and are at rates applicable to comparable officers in the executive branch.

This proposal constitutes the first major restructuring of the U.S. foreign aid program since the creation of the Agency for International Development in 1961. It will provide the United States with governmental machinery far better able to fulfill our commitment to assist people in developing countries to eliminate hunger, poverty, illness and ignorance. It responds to the mandate of the Congress. Let us work together to insure its successful and effective implementation.

JIMMY CARTER.

THE WHITE HOUSE, *April 10, 1979.*

REORGANIZATION PLAN NO. 2 OF 1979

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 10, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Section 1. *Establishment of the United States International Development Cooperation Agency.*

There is hereby established in the executive branch an independent agency to be known as the United States International Development Cooperation Agency (hereinafter referred to as the "Agency").

Section 2. *Director*

The Agency shall be headed by the Director of the International Development Cooperation Agency (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed by law for Level II of the Executive Schedule. Under the guidance of the President, the Director shall have primary responsibility for setting overall development assistance policy and coordinating international development activities supported by the United States. The Director shall serve as the principal advisor to the President and the Secretary of State on international development matters and shall report to the President and the Secretary of State. The responsibility of the Director for the exercise of the functions and authorities vested in or delegated to the Director or the Agency shall be subject to the guidance of the Secretary of State as to the foreign policy of the United States. The Director shall designate the order in which other officials shall act for and exercise the powers of the Director during the absence or disability of the Director and the Deputy Director or in the event of vacancies in both such offices.

Section 3. *Deputy Director*

The President, by and with the advice and consent of the Senate, may appoint a Deputy Director of the Agency, who shall receive compensation at the rate prescribed by law for Level III of the Executive Schedule. The Deputy Director shall perform such duties and exercise such powers as the Director may from time to time prescribe and, in addition, shall act for and exercise the powers of the Director during the absence or disability of the Director or during a vacancy in such office.

Section 4. *Associate Directors*

The President, by and with the advice and consent of the Senate, may appoint two Associate Directors of the Agency, who shall perform such duties and exercise such powers as the Director may from time to time prescribe and who shall receive compensation at the rate prescribed by law for Level IV of the Executive Schedule.

Section 5. *Performance of functions*

The Director may from time to time establish, alter, consolidate, or discontinue organizational units within the Agency, and delegate responsibility for carrying out any function or authority of the Director or the Agency to any officer, employee or unit of the Agency or any other officer or agency of the executive branch.

Section 6. *Transfers of functions*

(a) There are hereby transferred to the Director all functions and authorities vested in the Agency for International Development or in its Administrator pursuant to the following:

(1) sections 233(b), 296(e), 297(d), 298(c)(6), 299(d), 601(a) through (d), and 624(f)(2)(C) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b), 2220a(e), 2220b(d), 2220c(c)(6), 2220d(d), 2351(a) through (d), and 2384(f)(2)(C));

(2) section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a); and

(3) section 706 of the Foreign Relation Authorization Act, Fiscal Year 1979 (49 U.S.C. 1518).

(b) There are hereby transferred to the Director all functions and authorities vested in the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 or in its Administrator pursuant to sections 101(b), 119, 125, 531(a)(2), 601(e)(2), and 640B of such Act (22 U.S.C. 2151(b), 2151q, 2151w, 2346(a)(2), 2351(e)(2), and 2399c).

(c) There are hereby transferred to the Director all functions and authorities vested in the Secretary of States pursuant to the following:

(1) section 622(c) of the Foreign Assistance Act of 1961, insofar as it relates to development assistance (22 U.S.C. 2382(c)); and

(2) section 901 of Public Law 95–118 (22 U.S.C. 262g).

Section 7. *Abolition*

One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished.

Section 8. *Other transfers; interim officers*

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions and authorities affected by the establishment of the Agency, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this reorganization plan.

(b) Pending the initial appointment of the Director, Deputy Director, and Associate Director of the Agency, their functions and authorities may be performed, for up to 60 days after section 1 of this reorganization plan becomes effective, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for the position whose functions and authorities such individual performs.

Section 9. *Effective date*

This reorganization plan shall become effective on July 1, 1980, or at such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

best copy available

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 2 of 1979, which I transmitted to the Congress on April 10, 1979. Except as specifically amended hereby, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *May 21, 1979.*

AMENDMENTS TO REORANGIZATION PLAN NO. 2 OF 1979

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled May 21, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

Reorganization Plan No. 2 of 1979, which was transmitted to the Senate and the House of Representatives in Congress assembled on April 10, 1979, is hereby amended as follows:

A. Section 2 is amended to read:

"Section 2. *Director*

"The Agency shall be headed by the Director of the United States International Development Cooperation Agency (hereinafter referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed by law for Level II of the Executive Schedule. The Director shall have primary responsibility for establishing overall development assistance policy and coordinating international development activities supported by the United States. The Director shall serve as the principal advisor to the President and the Secretary of State on international development matters and also shall advise the President on all trade, science and technology, and other matters significantly affecting the developing nations. The Director shall report to the President and, on matters relating to foreign policy, to the Secretary of State. The Director shall designate the order in which other officials shall act for and exercise the powers of the Director during the absence or disability of the Director and the Deputy Director or in the event of vacancies in both such offices.".

B. Section 5 is amended to read:

"Section 5. *Performance of functions*

"The Director may from time to time establish, alter, consolidate, or discontinue organizational units within the Agency (other than units expressly established by statute or reorganization plan). The Director may from time to time delegate responsibility for carrying out any function or authority of the Director of the Agency to any officer, employee, or unit of the Agency, or any other officer or agency of the executive branch.".

C. Section 6 is amended to read:

"Section 6. *Transfers of functions*

"(a) There are hereby transferred to the Director all functions and authorities vested in the Agency for International Development or in its administrator pursuant to the following:

"(1) sections 233(b), 239(i), 296(e), 297(d), 298(c)(6), 299(d), 601(a) through (d), and 624(f)(2)(C) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2193(b), 2199(i), 2220a(e), 2220b(d), 2220c(c)(6), 2220d(d), 2351(a) through (d), and 2384(f)(2)(C));

"(2) section 407 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1736a); and

"(3) section 706 of the Foreign Relations Authorization Act, Fiscal Year 1979 (49 U.S.C. 1518).

"(b) There are hereby transferred to the Director all functions and authorities vested in the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, as amended, or in its Administrator pursuant to the following:

"(1) sections 101(b), 119, 125, 531(a)(2), 601(e)(2), and 640B of such Act (22 U.S.C. 2151(b), 2151q, 2151w, 2346(a)(2), 2351(e)(2), and 2399c); and

"(2) section 602 of the International Security Assistance and Arms Control Act of 1976 (22 U.S.C. 2352 note).

"(c) There are hereby transferred to the Director all functions and authorities vested in the Secretary of State pursuant to the following:

"(1) section 101(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151(b)), insofar as it relates to policy guidance other than foreign policy guidance, and section 622(c) of such Act (22 U.S.C. 2382(c)), insofar as it relates to development assistance; and

"(2) section 901 of Public Law 95-118 (22 U.S.C. 282g).".

APPENDIX B—MATERIAL FROM COMMITTEE HEARING ON REORGANIZATION PLAN NO. 2 OF 1979

STATEMENT OF AMBASSADOR HENRY OWEN

Mr. Chairman and members of the Committee: I am pleased to appear before you today in support of President Carter's Plan to create an International Development Cooperation Agency. The IDCA will include the Agency for International Development, the Institute for Scientific and Technological Cooperation and the Overseas Private Investment Cooperation. The Director of the new agency will have significant responsibilities for our policies concerning the International Organizations whose purposes are mainly developmental, and for advice concerning our relations with the multilateral redevelopment banks. He will serve as the principal development advisor to the Secretary of State and the President, and will be responsible for insuring that development goals are taken fully into account in all executive branch decisionmaking that substantially effects the developing nations.

With me today is Peter Szanton, Associate Director of OMB for Organization Studies, who will supplement my statement by describing in greater detail how we expect the IDCA to work. Also present are representatives of the State Department, the Treasury, AID, OPIC and ISTC who can respond to specific questions regarding the relation of these entities to IDCA.

Let me begin by emphasizing how deeply the President feels about the importance of our relations with the developing nations. Traditionally, this country has had a strong humanitarian interest in alleviating poverty and promoting equitable economic growth. But we are also increasingly aware of the substantial benefits to our own economy and society that flow from the sustained economic growth and political viability of developing nations.

As we all recognize, there is a strong link between the vitality of the American economy and prosperity in the developing nations. Last year, the developing countries purchased more than one-third of all U.S. exports, for example, and over the past five years they have provided more than one-fourth of the raw materials this country consumes. Clearly we can enhance our own well-being by encouraging and assisting rapid and equitable growth in the developing world.

The political importance of the developing nations to the United States is growing. In the long-term it will be as significant as their economic role. These nations can play an important role in helping to resolve conflicts and in supporting policies that would permit a more stable and mature world order—progress toward halting nuclear proliferation, establishment of a greater respect for human rights, and efforts to control the degradation of our oceans and atmosphere. As Secretary of State Vance has emphasized, progress toward each of these goals requires more than exhortation and diplomacy—it requires a willingness on our part to offer effective and tangible support for the economic growth and development of these nations. Our economic aid is the most visible expression of our interest in the economic well-being of developing nations and a closely watched barometer of our intentions in the so-called North/South dialogue.

To these ends, the United States has maintained a strong bilateral program and has been a major contributor to such multilateral development institutions as the World Bank and the United Nations Development Program. This Administration is committed to seeing that funding levels for these programs are commensurate with the needs and absorptive capacities of developing nations, and consistent with U.S. fiscal responsibilities.

However, while the level of U.S. foreign economic assistance is important, over the long term our assistance programs will be judged not by how much was spent but by how much development was achieved. Achieving the maximum development from our efforts requires essentially two things: First, that the many instruments through which we attempt to assist development are not only well designed and managed individually, but that they complement and reinforce each other; and second, that U.S. decisions on non-aid matters—on trade and monetary issues particularly—take development priorities fully into account.

With those two goals in mind our analysis of current organizational arrangements indicated four serious problems:

> First, there was no single U.S. official charged with responsibility for formulating a comprehensive development strategy and seeing to the implementation of that strategy throughout the Government. The Agency for International Development was responsible for the U.S. bilateral program, the Department of Agriculture (with AID) for the administration of our food aid program, the State Department managed U.S. participation in the development assistance activities of international organizations, and the Treasury Department handled U.S. participation in the multilateral development banks (MDBs).
>
> Second, decisions on trade, monetary, and other non-aid economic issues that affect developing nations were often taken without the participation of an authoritative spokesperson for development, with the result that developmental concerns were at times accorded insufficient weight in those decisions.
>
> Third, none of the agency heads testifying before the Congress about particular portions of our foreign assistance effort was able to speak authoritatively for that effort or to show the place of his own programs in the Administration's overall development policies and priorities.
>
> Fourth, insufficient attention was given to the use of science and technology to overcome developing country problems and to the support of long term development research.

Just before his death a year ago, Senator Hubert H. Humphrey proposed legislation to deal with these problems. Chairman Clement Zablocki introduced a similar measure in the House. Although the Congress took no action last year on the organizational provisions of the Humphrey-Zablocki bill, it did direct the President to institute a strengthened system of coordination of U.S. economic policies affecting the developing countries, and urged the Administration to create an agency with primary responsibility for coordination of international development-related activities. In response, the Administration took a number of steps early last year to strengthen aid coordination and improve the effectiveness of our development assistance programs.

The reorganization plan before you continues that process. It represents the most significant restructuring of the foreign economic aid program since AID was established in 1961. It addresses each of the deferences of the current system. It establishes a single official charged with developing a comprehensive and coherent strategy of development. It provides that official the means for coordinating U.S. bilateral programs. It enables him to better assure the complementarity of our bilateral programs with the efforts of the multilateral institutions to which the United States contributes. It gives him a role in the formula-ion of economic policies other than foreign assistance that affect the leveloping nations. It provides the Congress with a single spokesman esponsible for demonstrating the place of each development program n a larger national strategy of development. And it provides a new nstrument designed to better focus the skills of science and technology n the problems of developing countries.

For a more detailed explanation of how the IDCA is intended to perate, I'd like to turn to Peter Szanton.

Tatement of Peter Szanton, Office of Management and Budget

Mr. Chairman, members of the Committee, I am grateful for this pportunity to amplify Ambassador Owen's remarks. I'd like to ldress three questions:

(1) What are the components and authorities of IDCA?
(2) How will the new agency work?
(3) How will it be structured and staffed?

Aside from the Office of the IDCA Director, the three principal com-nents of IDCA will be AID, ISTC, and OPIC.

ency for International Development (AID)

AID is now an agency within the State Department. Its authori- s flow from the President to the Secretary of State by Executive er and then to the AID Administrator by delegation of the Sec-ry. When IDCA is created, the basic assistance authorities now egated to AID will flow through IDCA; AID will become a com-ent within IDCA and outside the Department of State.

ID's day-to-day operating responsibilties will not change, but the onsibilities for the overall coordination of U.S. foreign economic stance programs now vested in the AID Administrator will be gned to the IDCA Director. In addition, IDCA would establish control the budget and basic policies of AID, and the IDCA ctor would make recommendations to the President concerning the intment and tenure of AID's senior officials.

Institute for Scientific and Technological Cooperation

Under legislation transmitted by the Administration to the Congress on February 26, 1979, and approved by the House on April 9, the President is authorized to establish an Institute for Scientific and Technological Cooperation (ISTC) and delegate to it authority to carry out cooperative programs in science and technology. Should this proposal be enacted, the President intends to establish the ISTC within IDCA, much on the AID pattern. ISTC will have clear day-to-day operating autonomy within the framework of basic policies and overall budget established by the IDCA Director. The Director will make recommendations to the President concerning the appointment and tenure of ISTC's senior officials.

Overseas Private Investment Corporation (OPIC)

OPIC will also be a component of IDCA, but the responsibility of its Board of Directors for the agency's budget and policy will continue. The reorganization plan would substitute the IDCA Director for the AID Administrator as chair of the OPIC Board and, as in the cases of AID and ISTC, the IDCA Director would make recommendations to the President concerning the appointment and tenure of the senior officials of OPIC. The administrative authorities under the Foreign Assistance Act, now delegated directly to OPIC by Executive order, will be delegated to IDCA and redelegated to OPIC.

In addition to his powers over the component agencies within IDCA, the IDCA Director will be provided with several significant authorities.

International organizations

Currently, virtually all U.S. voluntary contributions to international organizations, whether or not engaged principally in development, are managed by the Department of State, and State establishes U.S. policy with respect to these institutions. To insure effective complimentarity between U.S. bilateral and multilateral development efforts, the reorganization will transfer lead responsibility for budget and policy for those international organizations that are primarily developmental to IDCA (though day-to-day backstopping and representational functions will remain in State). Included are the U.N. Development Program, UNICEF, OAS Technical Assistance Funds, U.N. Capital Development Fund, U.N. Education and Training Program for Southern Africa, UN/FAO World Food Program, FAO Post-Harvest Losses Fund, the U.N. Disaster Relief Office. In addition, AID will continue to have full responsibility for administering funds appropriated for the U.N. Fund for Population activities.

The transfer of these responsibilities will be accomplished through Executive order and administrative delegation.

Multilateral development banks

A major purpose of the reorganization is to assure a high degree of complimentarity between U.S. bilateral programs and the programs of the multilateral development banks (MDBs) to which the United States contributes. As to the MDBs, while the authority of the Secretary of the Treasury will not be diminished, the responsibilities assigned to the IDCA Director will be substantial. He will consult with the Secretary of the Treasury as to the selection of candidates for the

U.S. Executive Director and alternate Executive Director positions of the MDBs. Any disagreement between them would be made clear to the President. In addition, while the Secretary of the Treasury will continue to instruct the U.S. Executive Directors, the IDCA Director will be responsible for advising both the Secretary and Executive Directors on development projects, programs and policies undertaken by the MDBs. Given his position as principal development advisor to the President, the IDCA Director's conclusions with respect to the developmental merits of issues before the MDBs would normally be determinative. The instructions issued by the Secretary of the Treasury would therefore accord with those conclusions unless the Secretary determined that compelling financial or other nondevelopment reasons required a different U.S. position. Again, disagreements could be brought to the President.

Finally, as principal development advisor to the President, the Director of IDCA will have a principal role in interagency consideration of Treasury budget proposals concerning the MDBs, including replenishments. As discussed below, IDCA would include MDB programs and budget matters in its comprehensive review and analysis of the foreign economic assistance program, and would coordinate the presentation of the MDB budget to the Congress with the presentation of other components of the aid program.

Operating principals

Let me comment briefly now on how IDCA is intended to work. The purpose of the IDCA is not to operate the programs of its constituent elements. It is not to second-guess administrative arrangements or project details. It is to devise for the President's approval an effective national strategy for development; to review that strategy with the Congress; to communicate that strategy and the basis for it to the American people; and to insure that, to the maximum degree possible, all the actions of the U.S. Government that affect development support and advance that strategy.

IDCA's means for achieving those objectives are several. Over its own component agencies, and with respect to the international organizations and the multilateral development banks it will have the powers and responsibilities we have described. In addition, the Director of IDCA will replace the AID director as Chair of the Development Coordination Committee. This will provide him with an interagency vehicle to help insure coherence and balance among all development assistance instruments.

In order to take full part in the decisionmaking on the wide range of economic policies that are not exclusively related to the interests of the developing nations but that nonetheless have a powerful effect on their development, the Director of IDCA will become a member of a variety of formal and informal policy councils including, besides the DCC, the National Advisory Council on International Monetary and Financial Policies (NAC), and the Trade Policy Committee. In addition, the Director can expect to be invited to attend cabinet meetings when development issues are under dicussion, and will participate in Policy Review Committee discussions involving foreign assistance issues.

Finally, the IDCA Director, pursuant to his broad responsibility for comprehensive review and analysis of the totality of the development assistance effort, will prepare an annual development policy statement covering all U.S. policies and programs having a major impact on the developing nations. This assessment will constitute broad budget guidance, provide an analytical basis for the Executive branch's presentation to the Congress, clarify the nature and priority of U.S. development goals and better ensure the consistency of U.S. actions with those goals.

Structure and Staffing

The details of IDCA's staffing and structure should be left to its Director, but the main elements are clear from the Reorganization Plan and from the nature of the tasks IDCA must perform.

The principal staff element of the Director's office will be concerned with *Policy Development*, *Program Review*, and *Budget Planning*. The main tasks of this staff will be to identify basic policy objectives, analyze long range development issues; design and implement a process for preparing an overall United States development budget; staff the Developing Coordinating Committee; and prepare the annual comprehensive budget analysis and the annual development policy statement.

The Legislative Affairs function should be closely involved in the development of the basic policy. The Congressional Relations staff of AID and the other component agencies will work with Congress on issues specific to their agencies and budgets, within the framework of policies set by IDCA.

In addition, there would necessarily be small support staffs, and a General Counsel. Altogether, those staffs might contain 35 to 50 professionals.

This concludes our brief description of the purposes, powers and structure of IDCA. Together with our colleagues, we would be pleased to respond to any questions you may have.

Oral Responses by the Administration to Questions Raised at the Hearing

Senator Ribicoff. Gentlemen, in my view, the nature of IDCA's role in the area of the banks will largely determine whether this reorganization makes sense. Your testimony provides some constructive suggestions on this issue.

I would like to ask you a series of questions so the record is clear.

First, do you intend that in the case of each individual bank project, IDCA will have the responsibility to monitor the development of each proposal from the beginning, review the loan when it is formally submitted for approval and prepare for each proposal a full U.S. position on the loan which would be determinative unless Treasury changed it for compelling financial or other nondevelopment reasons?

Ambassador Owen. The short answer is yes.

Senator Ribicoff. I hope it stays yes.

Second, you say that IDCA's conclusions with respect to the developmental merits of issues before the banks would normally be determinative. Does the word normally refer only to the possibility that the Secretary may determine that compelling financial or other nondevelopment reasons require a different U.S. position?

Ambassador **Owen**. Yes, sir. The only amendment I would make to my answer is that in some cases it may not be evident where the dividing line occurs between the development considerations, on the one hand, and financial and other considerations, on the other. But, subject to that, the answer is yes. That is what the word "normally" means in that sentence.

Senator **Ribicoff**. You say that the Treasury Department's instructions to the Executive Director will accord with the conclusions of IDCA unless the Secretary determines that compelling financial or other nondevelopment reasons require a different U.S. position.

Do you term nondevelopment to refer to a broad or narrow category of reasons?

Ambassador **Owen**. I intend them, Senator, to refer to those injunctions that have been laid on us by the Congress, either in legislation or legislative history, which limit our freedom of action with respect to projects or programs coming before the MDB.

I recall there are five restrictions: With respect to commodities, expropriation, nonproliferation, human rights, and one other which escapes me. It is these restrictions, which have been mandated by the Congress, which the Treasury Department has to interpret, because it was the Treasury Department which was most exposed to them in seeking funds for the MDB from the Congress.

Senator **Ribicoff**. How frequently would you expect the Secretary to find that nondevelopment reasons other than financially require a different position from the one prepared by IDCA?

Ambassador **Owen**. My expectation is that this would occur seldom, Mr. Chairman.

Senator **Ribicoff**. What do you mean by the phrase, "other nondevelopment reasons"?

Ambassador **Owen**. The ones which I have just cited, Mr. Chairman, which are laid on us by the Congress and which restrict our freedom to act with respect to projects and programs coming before he MDBs.

Senator **Ribicoff**. What do you mean by the term "financial"?

Ambassador **Owen**. I prefer that Mr. Nachmanoff speak to that question.

Senator **Ribicoff**. There are some more microphones. Why don't you it, sir? Whoever might be required to give answers, should come up o the front.

Mr. **Nachmanoff**. A variety of considerations, involving exchange ate policy, external debt service, things of those kinds, the financial nplications of absorptive capacity, and credit worthiness, of course.

Senator **Ribicoff**. These you consider basic to American economic nd financial policy?

Mr. **Nachmanoff**. Yes, sir, and to the soundness of the institutions emselves.

Senator **Ribicoff**. Do you intend the Treasury Department to connue to play the lead role for the financial aspects of the activities of e banks, including overall policy questions about the leading programs of the banks, that will affect the financial stability of the bank or the ability of the bank to raise money in U.S. capital markets?

Ambassador **Owen**. Very emphatically, yes, Mr. Chairman.

Senator **Ribicoff**. In other words, this is really basic to the financial policy of the United States?

Ambassador **Owen**. Yes, sir.

Senator **Ribicoff**. You say in your testimony that the authority of the Secretary of the Treasury will not be diminished. Do you just mean by this that the Secretary's formal authority to instruct the U.S. Executive Director will not be diminished, even though the exercise of that authority will be subject to the determinative role of IDCA on developmental matters to the extent we have just been discussing?

Ambassador **Owen**. Yes, sir. I think your statement is accurate. I believe that the Secretary of the Treasury will welcome the contribution of the IDCA director to his decisions from the standpoint of development considerations.

Senator **Ribicoff**. Your testimony as clarified by these answers is useful. This issue is too central to the whole organization to be left to just testimony. Since it requires certain agencies to act in certain ways, it needs to be expressed as a Presidential order actually directing the agencies on a permanent basis to act in this way. Such a formal document is a key to working this problem out. Otherwise, the agencies will not be under any permanent requirement to do as you say they should do.

Can I have your assurance that your testimony with the clarifications we have just discussed will be implemented in the form of an Executive order or other directive signed by the President which will be a permanent and public part of this reorganization, unless this President or if a future President acts specifically to formally amend such order?

Ambassador **Owen**. Yes, sir. We will embody the statements which I have made today either in Executive Order or in a memorandum which will be signed by the President or by direction of the President and which will be part of the public record.

Senator **Ribicoff**. Will this document be provided this committee by May 7?

Ambassador **Owen**. If that is a week from today, yes, sir.

Senator **Ribicoff**. Among the material you have submitted to the committee is a proposed set of amendments to the reorganization plan. The amendment provides in part that the head of IDCA shall report to the President and, on matters relating to foreign policy to the Secretary of State.

The original language provided that IDCA would report to the Secretary of State as well as the President on all matters. Is this amendment supported by Secretary of State Vance?

Ambassador **Owen**. Yes, sir.

Senator **Ribicoff**. Lead responsibility for the budget and policy of certain international organizations will be transferred to IDCA. You state, though, the day-to-day backstopping and representational functions will remain in State.

Will IDCA have the final authority to instruct the U.S. delegation to a meeting of such organizations, even if the delegation itself is headed by the State Department?

Ambassador Owen. I will ask Mr. Szanton to answer that.

Mr. Szanton. The short answer to that, Mr. Chairman, is yes, it will.

Senator Ribicoff. OPIC is a corporation that operates a program offering political risk insurance, loans and loan guarantees for private investment in less developed countries. As I understand OPIC's function, its developmental role depends on investment decisions made by businessmen. It does not seek appropriations and is not included in the economic assistance budget.

What policy advantage will be gained by including OPIC in a limited way in IDCA rather than in a new trade department as Senator Roth and myself have proposed?

Mr. Szanton. I will ask Mr. Hirschhorn to answer that, Mr. Chairman.

Mr. Hirschhorn. Mr. Chairman, we looked at OPIC both in the foreign assistance context and in the trade context. In fact, another hat that I wear is as director of the trade study being conducted by the President's reorganization staff. We looked at it very carefully in both contexts. A major point about it that led us to decide that OPIC is more appropriately placed in a foreign assistance agency was made by the Congress as recently as last October in amending OPIC's organic act. I would like to quote from it briefly if I may:

> The corporation in determining whether to provide insurance, financing or insurance for a project shall especially—(1) be guided by the economic and cial development impact and benefits of such a project and the ways in ich such a project complements or is compatible with, other development sistance programs or projects of the United States or other donors; and (2) give preferential consideration to investment projects in less developed ntries that have per capita incomes of $520 or less in 1975 United States dol- s, and restrict its activities with respect to investment projects in less devel- d countries that have per capita incomes of $1,000 or more in 1975 United ates dollars.

We read that as a fairly strong congressional injunction that OPIC to concentrate on the least developed countries, and that its projects ould be closely allied with and compatible with other development ivities supported by the United States.

Senator Ribicoff. When this reorganization plan was sent up, there s not much talk about the possibility of a Department of Trade. Now re is. I would assume that a Department of Trade will be passed in s session of Congress. But the philosophy and the objective could l be placed in the legislation in the Trade Department putting IC in that, to have them still cooperate with IDCA on less devel- d countries and whatever your philosophy is there to give it pri- y, could it not?

r. Hirschhorn. It could. But we think it is more appropriately ed in the IDCA at this time.

nator Ribicoff. But OPIC is not an assistance program really. understand OPIC, OPIC really is a private investment group and pends a great deal on whether businessmen want to make an invest- t or not. It is not an aid program.

Ambassador **Owen.** Mr. Chairman, if I may be permitted to make a procedural comment: At the moment we don't have before you an organization plan in the trade field. As you know, we are still considering this. If an organization plan in the trade field comes up to the Congress, and if on the basis of that plan, the Congress decides that it would prefer to put OPIC someplace other than IDCA, then the Congress can work its will.

At the moment, the only plan we have before you is this plan. On that basis, we believe OPIC belongs in IDCA. If you want to change it later, Mr. Chairman, that is something you can do.

Senator **Ribicoff.** I think this is a basic problem. My understanding is that the President will have presented to him within a day or so, your suggestions on the Department of Trade. I know that is very much an ongoing project. I would imagine that in the implementing legislation of MTN, there will be a provision requiring a Department of Trade. Both Senator Durenberger and I serve on the Finance Committee. Senator Roth also serves on the Finance Committee and the Governmental Affairs Committee.

We will probably be moving to establish a Department of Trade. So the likelihood of a Department of Trade is an actual one. If a Department of Trade were created, would there be any basic objection on your part to putting OPIC in the Department of Trade with the type of protection you feel you should have to coordinate their investments with your general policy directives? Would there be any objection to that?

Ambassador **Owen.** Mr. Chairman, the President's present position is that OPIC belongs in IDCA. Until he has approved an organization plan regarding the other issues you have just raised, I cannot say what his position is on those issues.

Senator **Ribicoff.** That is a very wise answer from someone who owes his appointment to the President of the United States. This committee needs your answer to a number of other important questions before it can vote on this proposal. These questions concern the relationship between State and IDCA in the area of international organizations; IDCA's role in the food aid policy area and the exact source and number of positions which would be transferred to IDCA.

Rather than take up the time of the committee now, can I ask you to respond within one week in writing to all these questions?

Ambassador **Owen.** Yes, sir.

Senator **Ribicoff.** I have quite a number of questions. The staff will get them to you, Ambassador Owen. I think they are important and should be part of the record.

Ambassador **Owen.** We will answer them in writing, Mr. Chairman.

Senator **Ribicoff.** Senator Durenberger, do you have any questions?

Senator **Durenberger.** No, Mr. Chairman.

Senator **Ribicoff.** Gentlemen, I would imagine within the 30-day period, our staffs will be getting together to discuss potential amendments that the President should be sending up. I think that will be important.

Gentlemen, thank you for your presentation. We will be in touch with you.

Ambassador **Owen**. Could I add one thing, Mr. Chairman?

You asked me at the start about the IDCA's director's role in respect to the development aspects of the projects and programs coming before the MDB. He will be drawing fully on the other agencies, AID, Treasury, et cetera. It will not be a judgment he will form alone, but a judgment he will form drawing on the work of the other agencies which he is charged with coordinating.

Senator **Ribicoff**. Thank you, very much.

WRITTEN RESPONSES OF AMBASSADOR OWEN TO CERTAIN QUESTIONS SUBMITTED BY SENATOR RIBICOFF

Question. If the Administration further explains the relationship between IDCA and Treasury with respect to the MDBs through a memo rather than an Executive order, what will be the legal effect and the duration of such a document?

Answer. A memorandum from or issued at the direction of the President to his subordinates will bind them until such time as altered or superseded by or at direction of this or a future President.

Question. Will IDCA have the authority to decide whether there shall be a subcommittee on multilateral aid, and if so, which agency shall chair the subcommittee?

Answer. Yes. In consultation with other DCC members, the Director of IDCA, as Chair of the DCC, will decide on the number, jurisdiction and chairing of all subcommittees.

Question. Do you intend IDCA to have the lead responsibility, in consultation with Treasury, for evaluating the effectiveness of individual development projects conducted by the banks?

Answer. Yes. The IDCA Director would have lead responsibility for insuring that the development impact and effectiveness of individual projects, programs and policies of the banks are subject to continuing evaluation.

Question. Will IDCA be represented on each U.S. delegation responsible for conducting replenishment negotiations with any multilateral development bank?

What role generally do you intend IDCA to play in the consideration of *financial* matters involving the banks?

Answer. ICDA will have the choice of being represented on all U.S. delegations conducting replenishment negotiations. In addition IDCA will be represented on the various working groups established within he executive branch to consider replenishment issues.

As to financial matters, principal responsibility will remain with Treasury, which will consult closely with other interested agencies.

Question. What role do you intend IDCA to play in the formulation d implementation of U.S. food aid policy through Public Law 480 other programs?

What role do you intend the Development Coordination Committee play in this area?

Answer. We intend IDCA to play an active and important role in e formulation of U.S. food aid policy.

The Director of IDCA will be responsible for preparing an annual development policy statement for submission to the President. This document will include analysis and recommendations regarding the role of food aid and, if approved by the President, would serve as general guidance to the involved agencies in preparing their budget requests and managing their programs.

In addition, the IDCA budget request to OMB will continue to include recommendations regarding the Title I, Title II and Title III programs. In this respect, the Director of IDCA will be responsible for advising the President on the overall level and composition of the total development assistance program and for establishing program and funding priorities among the components—including food aid. In addition, the comprehensive analysis of the total development assistance effort would include a review of food aid programs, their impact on development and an assessment of their relative effectiveness.

Currently, the DCC has a subcommittee that reviews individual food aid programs and establishes broad food aid policy. We expect that this committee will maintain these functions, although in this instance, as in others, the precise role of the DCC will be up to the Director of the IDCA to establish.

Question. Will IDCA's own budget and the budget for AID and the Institute be subject to review or control by any other agency within the Executive Branch except, of course, OMB and the President?

Will IDCA in any way control the budget of the Overseas Private Investment Corporation?

How will IDCA's role in the budget formulation process for other agencies differ from the role AID is now supposed to play as head of the Development Coordination Committee?

In what way will the annual development policy statement prepared by IDCA constitute "broad budget guidance" to the other agencies?

Answer. IDCA will consult with the Secretary of State regarding the entire IDCA budget, but State will not control the budget and cannot change it. The Secretary could, of course, bring any disagreements concerning the IDCA budget to the President. Aside from this consultation with State, the IDCA budget will not be subject to review or control by any other agency other than OMB.

OPIC will submit its budget to OMB through the Director of IDCA. The Director may suggest changes in that budget to OMB but is obliged to transmit it as approved by the OPIC Board.

The difference between IDCA and AID in regard to the budgets of non-component agencies is that, in addition to proposing broad budget guidance for all development-related activities through the annual policy statement described below, IDCA will perform each year a comprehensive review of the actual budget submissions for all such activities and, as principal international development advisor to the President, the IDCA Director will, in the course of OMB's review of those submissions, comment to OMB on their appropriateness and consistency with the President's policy.

After consultation with other interested agencies, the annual development policy statement would be submitted by the Director of IDCA to the President for his review and, if approved, would be transmitted to the involved agencies prior to preparation of their budgets. While this document would not preclude alternative budget recommendations or the possibility of final Presidential decisions at variance from policies set forth in the statement, it would provide an early, guiding indication as to Presidential policy.

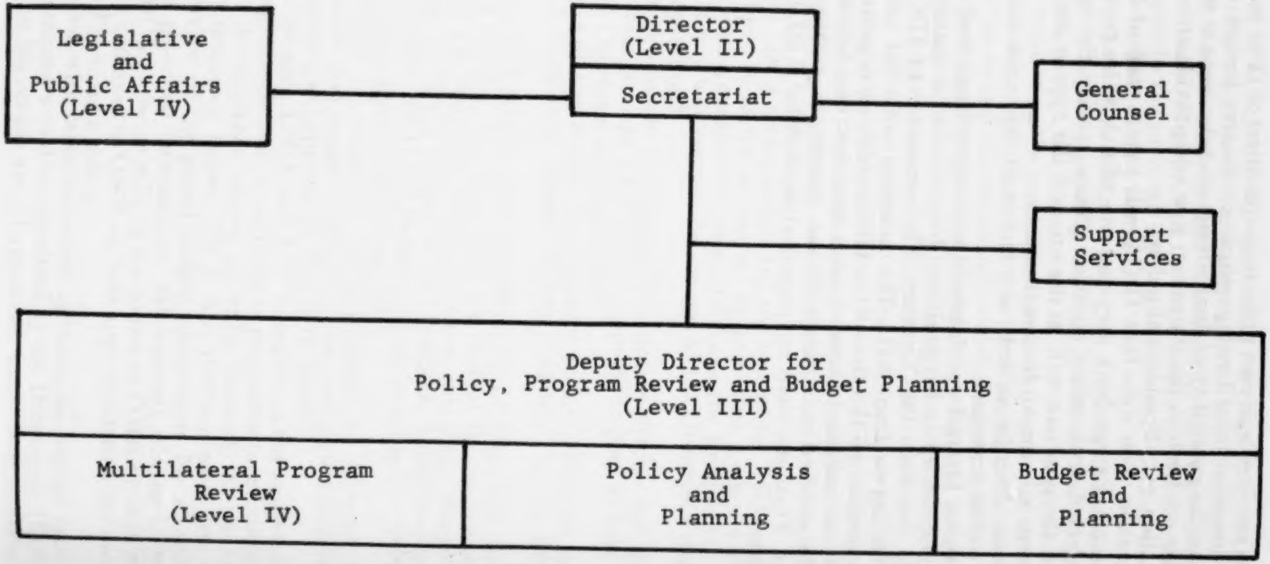
Question. You state that IDCA will have a staff of 35 to 50 professionals. Except for a very few top officials these positions will be transferred from other agencies. Please specify the agencies from which the positions will be drawn, and the approximate number of positions to be drawn from each agency.

Please describe as well as you can at this time how the IDCA staff will be organized.

Answer. Overall (professional and supporting) staffing for IDCA will include up to ten positions from the Department of State and up to five from the Treasury. The remainder of IDCA's positions will be drawn from AID. The Administration has not yet taken a firm position on the size of the IDCA staff; an organization smaller than that indicated above remains open for consideration.

The attached chart sets forth one possible organizational arrangement. Final decisions on organization will be made by the IDCA Director.

International Development Cooperation Agency
(Office of the Director)


Legislative and Public Affairs (Level IV)
Director (Level II)
Secretariat
General Counsel
Support Services
Deputy Director for Policy, Program Review and Budget Planning (Level III)
Multilateral Program Review (Level IV)
Policy Analysis and Planning
Budget Review and Planning

Question. You state in your testimony that IDCA "will become a member of a variety of formal and informal policy councils."

Will IDCA have the authority to join any such policy councils discussing issues affecting development of the Third World which it wishes to join?

Will IDCA be a full participating member of each of the policy councils it joins?

What procedures will be adopted to ensure that IDCA is given the opportunity to so participate in all council meetings discussing issues which will affect the development of the Third World?

Answer. By reorganization plan and by Executive order the Director of IDCA will be made a member of those policy councils having an important impact on development issues. There are other councils in the executive branch in which the Director of IDCA may from time to time involve himself. Because the Director of IDCA is the principal development advisor to the President and the Secretary of State, we would anticipate no difficulty in assuring ready access to these councils whenever the Director wishes to obtain it.

In the case of the National Advisory Council on International Monetary and Financial Policies, and the Trade Policy Committee the Director of IDCA would be a full participating member. He will chair the Development Coordination Committee. When the Policy Review Committee of the National Security Council considers development issues, the IDCA Director will act as chair. Similarly, we anticipate that the Director will attend Cabinet meetings when appropriate. In the case of other councils, the extent of participation would depend on the subject matter but we anticipate no difficulty in the IDCA Director participating fully in any important matter involving development policy.

Question. Lead responsibility for the budget and policy of certain international organizations will be transferred to IDCA. You state though that "day-to-day backstopping and representational functions will remain in State."

Please describe what "backstopping" and representational func-
ions you expect to remain in State and why.

Please describe which functions for these international organiza-
ions will be transferred by executive orders and which will be trans-
erred by administrative delegation.

Answer. The IDCA Director would exercise his lead responsibility
r development policy and budget by serving as the decision point
determining U.S. policies regarding the specified international
ganizations and programs, and in determining the level of budget
quests for the specified U.S. voluntary contributions, subject to the
eign policy guidance of the Secretary of State.

The Director of IDCA would have lead responsibility for recom-
nding to the Secretary of State the membership and composition
U.S. delegations to governing bodies and other special and/or
iodic meetings of those international organizations specified in
President's reorganization decision.

ased on the IDCA Director's policy direction, and in consultation
IDCA staff, the IO Bureau in the Department of State, in
eration with USOAS, would continue to be responsible for repre-

senting U.S. interests in conducting day-to-day participation in the international organizations and programs.

Day-to-day backstopping and representational functions would include maintaining liaison with the secretariats of each organization or program and with other delegations; preparing on the basis of the IDCA Director's policy guidance detailed instructions for U.S. representatives dealing with the governing bodies and secretariats of such organizations or programs; monitoring related activities as they are acted upon within other UN or OAS bodies (e.g., the UN General Assembly or the Economic and Social Council); identifying current or anticipated policy issues that will require fresh decisions by the IDCA Director and submitting them to him for action; responding to IDCA requests for analyses of development policy issues arising in international organizations; communicating with the various U.S. government agencies interested in the specified activities; and preparing for and monitoring congressional actions regarding such organizations or programs and responding to requests for information from the Congress.

The purpose of these arrangements is to ensure that the IDCA Director is able to provide policy direction to U.S. activities in support of the specified international organizations and programs whose purpose is primarily developmental, while freeing him from responsibility for day-to-day management and operations, and avoiding inconsistencies between U.S. positions on developmental and non-developmental issues in international organizations.

The basic authority for U.S. contributions to the primarily developmental international organizations and programs will be delegated to IDCA by Executive order. The role for the State Department indicated above will be based on funding reallocations by IDCA and other administrative arrangements among IDCA, AID and State, consistent with the Secretary of State's responsibilities for the conduct of U.S. foreign relations.

Question. Please estimate in accordance with Section 903(b) of the Reorganization Act Authority "any reduction or increase in expenditures (itemized so far as practicable)," which are expected to result from the reorganization.

Will the establishment of IDCA make it possible for other agencies engaged in development activities to share resources, information, or facilities, thereby saving money or increasing efficiency?

Answer. The purpose of the foreign aid reorganization is to increase the effectiveness of U.S. development assistance programs, and no immediate budgetary savings are projected. The President has made it clear, however, that the reorganization will be carried out with no increases in personnel ceilings or operating costs.

IDCA will be the central focus for international development programs in the U.S. government. Its resources and information will be available, as appropriate, to other interested agencies. Conversely, IDCA will draw upon the relevant information and resources of other Federal agencies thus increasing efficiency and leading to possible savings through the avoidance of duplication of effort.

APPENDIX C—PRESIDENTIAL DIRECTIVE CONCERNING U.S. PARTICIPATION IN MULTILATERAL DEVELOPMENT BANKS

THE WHITE HOUSE,
Washington, May 17, 1979.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As promised in my testimony before the Committee on May 1, 1979, I enclose a draft of a memorandum that we will recommend to the President that he sign when the International Development Cooperation Agency is established later this year.

Please advise me if you require any aditional information in connection with your consideration of the IDCA reorganization plan.

Sincerely,

HENRY OWEN,
Ambassador-at-Large.

THE WHITE HOUSE,
Washington.

DRAFT MEMORANDUM FOR THE SECRETARY OF STATE, THE SECRETARY OF THE TREASURY, THE DIRECTOR, INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Subject: U.S. Participation in Multilateral Development Banks.

Reorganization Plan No. 2 of 1979, effective October 1, 1979, establishes the International Development Cooperation Agency (IDCA) and gives the Director of IDCA primary responsibility for establishing overall development assistance policy and coordinating United States support for international development activities. The Plan also provides that the Director shall serve as principal advisor to the President on international development matters and advisor on other matters significantly affecting the developing nations.

The President has today signed an Executive order amending Executive Order 11269 with regard to United States participation in the multilateral development banks. The President has directed that in carrying out your responsibilities under Executive Order 11269, the relationship among your three agencies shall be as follows:

1. The Secretary of the Treasury will consult with the IDCA Director regarding the selection of candidates for the U.S. Executive Director and Alternate Executive Director positions. Any differences between them as to positions requiring Presidential appointment will be submitted to the President for resolution.

2. The Secretary of the Treasury will continue to instruct U.S. representatives to the MDBs. The Director shall advise both the Secretary and the U.S. representatives on development programs and policies, and on each development project of the MDBs. Given his position as

principal development advisor to the President, the Director's conclusions with respect to the developmental merits of issues before the MDBs will normally be determinative, as provided below.

The instructions issued by the Secretary of the Treasury will accord with those conclusions except in such cases as the Secretary finds that compelling financial or other nondevelopmental reasons (in other words, express legislative requirements) require a different U.S. position. Differences between the Director and the Secretary may be submitted to the President for resolution.

3. The Director will have a principal role in interagency consideration of Treasury budget proposals concerning the MDBs, including replenishments. IDCA will include MDB programs and budget matters in its comprehensive review and analysis of the foreign assistance program, and will coordinate the presentation of the MDB budget to the Congress with the presentation of other components of the aid program.

4. Nothing in this memorandum is intended to derogate from the responsibilities of the Secretary of State as to the foreign policy of the United States.

APPENDIX D—DRAFT EXECUTIVE ORDERS ON ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS AND MULTILATERAL DEVELOPMENT INSTITUTIONS

[Draft Executive Order]

ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, Reorganization Plan No. 2 of 1979, the International Development Cooperation Act of 1979, and Section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I. UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SEC. 101. Establishment of Agency. Sections 1, 6, and 8(b) of Reorganization Plan No. 2 of 1979 are hereby made effective.

SEC. 102. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by the provisions of this order, there are hereby delegated to the Director of the United States International Development Cooperation Agency (hereinafter referred to as the Director) all functions conferred upon the President by:

(1) the Act (as defined in Part IX hereof);

(2) the Latin American Development Act (22 U.S.C. 1942 et seq.);

(3) section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922);

(4) section 413(b) of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2431).

(b) The functions under sections 116(e), 491(b), 491(c), 620(s), 625(d), 627, 628, 630(3), and 666 of the Act delegated to the Director shall be exercised in consultation with the Secretary of State.

(c) The functions under section 125(b) of the Act delegated to the Director shall be exercised in consultation with the Secretary of the Treasury.

(d) The Director shall exercise the functions of the President under sections 301(a) and 305 of the Act only insofar as they pertain to the United Nations Development Program, UNICEF, the Organization of American States Technical Assistance Funds, the United Nations Capital Development Fund, the United Nations Educational and Training Program for Southern Africa, the United Nations/Food nd Agriculture Organization World Food Program, the Food and Agriculture Organization Post-Harvest Losses Fund, the United Na-ions Disaster Relief Organization, and any other international programs whose purpose is primarily developmental.

Sec. 103. Agency for International Development. (a) The Director of the United States International Development Cooperation Agency (hereinafter referred to as IDCA) shall continue in IDCA, the Agency for International Development, heretofore established in the Department of State.

(b) The Agency for International Development shall be headed by an Administrator who shall be appointed pursuant to section 624(a) of the Act.

(c) The officers provided for in section 624(a) of the Act shall serve in the Agency for International Development.

Sec. 104. Allocation of Foreign Assistance. In carying out the functions conferred upon the President by section 653 of the Act, the Director shall consult with the Director of the Office of Management and Budget.

Sec. 105. Office of Small Business. The Office of Small Business provided for in section 602(b) of the Act shall be in the Agency for International Development.

PART II. DEPARTMENT OF STATE

Sec. 201. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by the provisions of this order, and subject to the provisions of this order, there are hereby delegated to the Secretary of State (hereafter in this Part referred to as the Secretary) all functions conferred upon the President by

(1) sections 239(g), 301(b), 301(c), 302(a)(3), 481, and 502B of the Act;

(2) sections 504(a), 505(a) relating to other provisions required by the President, and 505 (d), (e), and (g) of the Act;

(3) sections 505(a) (1) and (4) of the Act relating to consent;

(4) sections 505(b) (1), (2), and (3) of the Act to the extent that they pertain to countries which agree to the conditions set forth therein;

(5) in cooperation with the Director, chapter 4 of part II of the Act, insofar as they relate to policy decisions and justifications, continuous supervision, and general direction of such operations authorized by such chapter;

(6) section 533(b) of the Act;

(7) chapter 6 of part II of the Act;

(8) section 601(b)(3), (4), and (6) of the Act;

(9) section 614(b) of the Act, except that the function of determining which provisions of law should be disregarded to achieve the purpose of the provision is reserved to the President;

(10) section 620(b), (c), (e), (f), (g), (i), and (q) of the Act;

(11) section 625(d) of the Act, insofar as it relates to personnel in the Department of State;

(12) section 625(k)(1) of the Act;

(13) section 634B of the Act, insofar as it relates to functions delegated to the Secretary under this order;

(14) section 653 of the Act, insofar as it relates to part II of the Act (other than chapter 4 thereof);

(15) sections 657, 659, and 668 of the Act;

(16) the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.);

(17) section 523 of the Mutual Security Act of 1954 (22 U.S.C. 1783(d));

(18) section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d)); and

(19) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(b) The Secretary shall exercise the functions of the President under sections 301(a) and 305 of the Act to the extent such functions are not delegated to the Director of IDCA or the Secretary of the Treasury.

(c) The functions under sections 239(g), 305, 620(e), 620(g), 620(i), 620(j), 620(q), 625(k)(1), and 659 of the Act delegated to the Secretary shall be exercised in consultation with the Director.

(d) The functions under section 653(b) of the Act delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

Sec. 202. Special Missions and Staffs Abroad. The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances as the chief of mission, class 3 and class 4, within the meaning of the Foreign Service Act of 1946 (22 U.S.C. 801 et seq.), all under section 631 of the Act, shall be subject to the approval of the Secretary of State.

Sec. 203. Negotiation. The negotiation, conclusion, and termination of international agreements pursuant to the Act or title——— of the nternational Development Cooperation Act of 1979 [ISTC] shall e subject to the concurrences required by Department of State Ciular No. 175.

PART III. DEPARTMENT OF DEFENSE

Sec. 301. Delegation of Functions. Subject to the provisions of this rder, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II (except chapters 4 and 6 thereof) of the Act not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 631(a), 634B and 659 of the Act.

(c) Those functions under section 634A of the Act, to the extent that they relate to notifications to the Congress concerning changes in programs under part II of the Act (except chapters 4 and 6 thereof), subject to prior consultation with the Secretary of State.

Sec. 302. Reports and Information. In carrying out the functions der section 514(e) of the Act delegated to him by section 301 of s order, the Secretary of Defense shall consult with the Secretary State.

SEC. 303. Exclusions from Delegation to Secretary of Defense. The following described functions conferred upon the President by the Act are excluded from the functions delegated by the provisions of section 301(a) of this order:

(a) Those under section 502B of the Act.

(b) Those under sections 504(a), 505(a) relating to other provisions required by the President, and 505(d), (e), and (g) of the Act.

(c) Those relating to consent under sections 505(a)(1) and (4) of the Act.

(d) Those under sections 505(b)(1), (2), and (3) of the Act to the extent that they pertain to countries that agree to the conditions set forth therein.

(e) Those of negotiating, concluding and terminating international agreements.

PART IV. INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

[to come]

PART V. OTHER AGENCIES

SEC. 501. Department of the Treasury. (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1) section 301(e)(3) as it relates to organizations referred to in section 301(e)(2);

(2) section 305, insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

(3) the second sentence of section 612(a) of the Act; and

(4) section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92-226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93-189 (87 Stat. 722).

(c) The functions under section 305 of the Act delegated to the Secretary of the Treasury shall be exercised in consultation with the Director, as provided in Executive Order No. 11269 of February 14, 1966, as amended.

Sec. 502. Department of Commerce. There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon the President by section 601(b)(1) of the Act as consists of drawing the ttention of private enterprise to opportunities for investment and de- elopment in less developed friendly countries and areas.

Sec. 503. Office of Personnel Management. There is hereby delegated o the Director of the Office of Personnel Management the function of rescribing regulations conferred upon the President by the proviso ontained in section 625(b) of the Act.

Sec. 504. International Communication Agency. (a) The Interna- onal Communication Agency shall perform all public information unctions abroad with respect to the foreign assistance, aid, and devel- pment programs of the United States Government.

(b) There are hereby delegated to the Director of the International ommunication Agency the functions conferred upon the President y sections 221 and 222 of the Act to the extent that those functions re- te to informational media guarantees authorized by section 1011 of e United States Information and Educational Exchange Act of 1948 2 U.S.C. 1442).

Sec. 505. Development Loan Committee. There is hereby established Development Loan Committee in accordance with section 122(e) of e Act. The Committee shall consist of the Director of IDCA, who all be chair, the Administrator of the Agency for International De- lopment, the Chairman of the Board of Directors of the Export- port Bank of the United States, the Assistant Secretary of State for onomic Affairs, the Assistant Secretary of the Treasury dealing th international finance, the Assistant Secretary of Commerce for dustry and Trade, and the officer of the Agency for International velopment dealing with development training.

Sec. 506. Development Coordination Committee. (a) In accordance h section 640B of the Act, there is hereby established a Development ordination Committee (hereinafter referred to as the Committee). e Committee shall consist of the Director of IDCA, who shall be air; the Administrator of the Agency for International Develop- nt; the Director of the Institute for Scientific and Technological peration; the Under Secretary of State for Economic Affairs; the ler Secretary of the Treasury for Monetary Affairs; the Under retary of Commerce; the Under Secretary of Agriculture; the ler Secretary of Labor; the Special Representative for Trade Nego- ons; an Associate Director of the Office of Management and

Budget; a representative of the Assistant to the President for national security affairs; the President of the Export-Import Bank of the United States; and the President of the Overseas Private Investment Corporation.

(b) Whenever matters within the jurisdiction of the Committee may be of interest to Federal agencies not represented on the Committee under subsection (a) of this section, the Chair of the Committee may consult with such agencies and may invite them to designate representatives to participate in meetings and deliberations of the Committee.

(c) The Chair of the Committee may establish subcommittees of the Committee and designate the chairs thereof.

(d) Subject to the foreign policy guidance of the Secretary of State, the Committee shall advise the President with respect to coordination of United States policies and programs affecting the development of developing countries, including programs of bilateral and multilateral development assistance.

(e) All agencies and officers of the Government shall keep the Committee informed in necessary detail as to the policies, programs and activities referred to in subsection (d) of this section.

(f) Nothing herein shall be deemed to derogate from the responsibilities of the Secretary of State or the Secretary of the Treasury, or from responsibilities vested elsewhere by law or other Executive orders.

PART VI. GENERAL DELEGATION

SEC. 601. General Delegation of Functions. There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act all functions conferred upon the President by:

(a) section 635(b), (d) and (g);

(b) section 654 (except as reserved to the President); and

(c) those provisions of acts appropriating funds under the authority of the Act that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

PART VII. RESERVED FUNCTIONS

SEC. 701. Reservation of Functions to the President. There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a), [495F,] 504(b), 505(c), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C, 621(a), 622(b), 622(c), 633(a), 633(b), 640B, 662(a), and 663(b) of the Act.

(b) The functions conferred upon the President by the Act and section 408(b) of the Mutual Security Act of 1954 with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act.

(c) The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 303, 481(a), 505(b)(4), 505(d)(2)(A), 505(d)(3), 506(a), 515(f), 604(a), 610, 614(c), 632(b), 633A, 663(a), 669(b)(1) and 670(b)(1) of the Act.

(d) The following-described functions conferred upon the President:

(1) Those under section 503(a) that relate to findings: *Provided*, that the Secretary of State, in the implementation of the functions delegated to him under section 505(a)(1), (a)(4), and (e) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under sections 505(b)(1), (2), and (3) in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) with respect to the publication in the Federal Register of any finding or determination reserved to the President: *Provided*, that any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) is also authorized to reach the conclusion specified in performance of the function delegated to him.

(e) Those with respect to determinations under sections 103(b) (first proviso), 104, and 203 of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611b(b), 1611c, and 1612b.

(f) That under section 523(d) of the Mutual Security Act of 1954 (22 U.S.C. 1783d).

(g) Those under section 607 of the Foreign Assistance and Related Programs Appropriations Act, 1979 (92 Stat. 1591), with respect to findings.

PART VIII. FUNDS

Sec. 801. Allocation of Funds. Funds appropriated or otherwise nade available to the President for carrying out the Act shall be leemed to be allocated without any further action of the President, s follows:

(a) There are allocated to the Director of IDCA all funds made available for carrying out the Act except those made available for carrying out Part II of the Act (other than chapter 6 thereof), section 481, and section 637(b) of the Act.

(b) There are allocated to the Secretary of Defense funds made available for carrying out Part II of the Act (except chapters 4 and 6 thereof) and such other provisions of the Act for which he has responsibility.

(c) There are allocated to the Secretary of State funds made available for carrying out sections 481 and 637(b) of the Act.

Sec. 802. Reallocation of Funds. The Director of IDCA, the Secretary of State, and the Secretary of Defense may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c), respectively of section 701 of this order, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

PART IX. GENERAL PROVISIONS

Sec. 901. Definitions. (a) As used in this order, the words "the Act" mean the Foreign Assistance Act of 1961, as amended.

(b) As used in this order, the word "function" or "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

Sec. 902. Personnel. (a) In carrying out the functions conferred upon the President by the provisions of section 625(d)(1) of the Act, and by this order delegated to the Director of IDCA, such Director shall authorize such of the agencies that administer programs under the Act as he may deem appropriate to perform any of the functions under section 625(d)(1) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 or section 625(d) of the Act for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 528 of the Foreign Service Act of 1946 in cases which their service under the appointment, employment, or assignment exceeds thirty months.

Sec. 903. Coordination. The Secretary of State, the Secretary of Defense, and the Director, in carrying out the functions delegated to them under this order, shall consult with each other and with the heads of other departments and agencies on matters pertaining to their responsibilities.

Sec. 904. References to Orders and Acts. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive order to (1) the Foreign Assistance Act of 1961 (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954, or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive order to the Mutual Security Act of 1954 or any provisions thereof shall be deemed to be references to the Act or the corresponding provision, if any, thereof.

(c) References in this order to provisions of any appropriation Act, and references in any other Executive order to provisions of any appropriation Act related to the subject of this order shall be deemed to include references to any hereafter-enacted provisions of law that are the same or substantially the same as such appropriation Act provisions, respectively.

(d) References in this order or in any other Executive order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive order not superseded by this order to any provisions of any Executive order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

ec. 905. Superseded and Amended Orders. (a) The following are eby superseded:

(1) Executive Order No. 10973 of November 3, 1961, as amended, and all delegations of authority made pursuant thereto.

(2) Section 2(a) of Executive Order No. 11579 of January 19, 1971.

(3) Executive Order No. 10893 of November 8, 1960.

b) The following are hereby amended:

(1) Section 3(a) of Executive Order No. 11846 of March 27, 1975, as amended, by adding the following new paragraph (12) after paragraph (11):

"(12) The Director of the International Development Cooperation Agency".

(2) Section 1–202 of Executive Order No. 12065 of June 28, 1978, by striking out "The Administrator, Agency for International Development" and inserting in lieu thereof "The Director, International Development Cooperation Agency".

(3) Section 2(a) of Executive Order No. 11958 of January 18, 1977, by striking out "the Administrator of the Agency for International Development" and inserting in lieu thereof "the Director of the International Development Cooperation Agency".

) Any reference in any other Executive order to the Agency for rnational Development or the Administrator thereof shall be ed to refer to the International Development Cooperation Agency e Director thereof, respectively.

c. 906. Saving Provisions. Except to the extent inconsistent with rder, all determinations, authorizations, regulations, rulings, certes, orders, directives, contracts, agreements, and other actions , issued, or entered into with respect to any function affected by rder and not revoked, superseded, or otherwise made inappli- before the date of this order, shall continue in full force and until amended, modified. or terminated by appropriate authority.

c. 907. Effective Date. The provisions of this order shall become ive as of October 1, 1979.

JIMMY CARTER.

e WHITE HOUSE, ————, *1979*.

APRIL 27, 1979.

[Draft Executive Order]

MULTILATERAL DEVELOPMENT INSTITUTIONS

irtue of the authority vested in me by the Bretton Woods Agree- Act, the International Finance Corporation Act, the Inter-

American Development Bank Act, the International Development Association Act, the Asian Development Bank Act, Public Law 95-118, Reorganization Plan No. 2 of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Executive Order No. 11269 of February 14, 1966, as amended, is amended as follows:

(1) In section 1(b), by adding "the Director of the International Development Cooperation Agency," after "the Chairman of the Board of Governors of the Federal Reserve System,".

(2) In section 3(a)(1), by inserting ", subject to the provisions of section 4 of this order," after "Authority".

(3) By adding at the end of section 3(a)(2) the following new sentences: "Such authority, insofar as it relates to the development aspects of the policies, programs, or projects of the International Bank for Reconstruction and Development, shall be exercised subject to the provisions of section 4 of this order."

(4) In section 3(e), by adding ", subject to the provisions of section 4 of this order" before the period.

(5) By renumbering sections 4, 5, and 6 as sections 5, 6, and 7.

(6) By inserting a new section 4 as follows:

"Section 4. Functions of the Director of the International Development Cooperation Agency. As the President's principal international development advisor, the Director of the International Development Cooperation Agency will advise both the Secretary of the Treasury and the appropriate United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund on the development aspects of matters relating to those institutions and their activities.

(7) In section 5(a)(2), as renumbered by section 1(6) of this order, by adding, "the Director of the International Development Cooperation Agency," after "the Council" each time it appears.

SEC. 2. The amendments made by this order shall be effective as of ———, 19—.

APPENDIX E

DEPARTMENT OF STATE,
Washington, May 22, 1979.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: I am writing to convey our views on several points that I hope will be responsive to concerns expressed about the DCA reorganization plan.

First, the benefits of the plan will be substantial. It will greatly improve coordination between our bilateral and multilateral assistance programs, and will provide a focal point for formulating a consistent nd coherent policy for all of our many development assistance programs.

Second, it will achieve these benefits at no additional cost. The plan does not require any additional personnel or budget to meet its bjectives.

Third, the plan fully preserves the foreign policy authority of the Secretary of State in foreign assistance matters, by providing that the DCA Director will report to the Secretary on matters relating to oreign policy.

I hope the Committee will give its support to this important roposal.

With regards,
Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

APPENDIX F

RECORD VOTE OF COMMITTEE

The Committee met to consider the proposal in open session on May 22, 1979.

The Committee vote disapproving Senate Resolution 140 was as follows:[1]

Yeas

Eagleton
Glenn
Sasser
Pryor
Danforth
Ribicoff
(*Proxy*)
Nunn
Levin
Javits
Mathias

Nays

Percy
Cohen
Durenberger

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[1] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-211

REPORT OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 13 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

Pursuant to section 302(b) of the Congressional Budget Act, the Committee on Banking, Housing, and Urban Affairs reports the following allocations of spending responsibility as set forth in the First Concurrent Resolution on the Budget for fiscal years 1979, 1980, 1981 and 1982.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1979				
Function 050—National defense: Department of Defense—Military: Revolving and management funds: Defense production guarantees (97-9931-0-3-051-00)	0	1	0	0
Function 050 total	0	1	0	0
Function 150—International affairs:				
Department of the Treasury: Office of the Secretary: Exchange stabilization fund (20-4444-0-3-155-02)	0	−167	0	0
Other Independent Agencies: Export-Import Bank of the United States: Export-Import Bank of the United States (83-4027-0-3-155-00)	0	0	0	0
Function 150 total	0	−167	0	0
Function 370—Commerce and housing credit:				
Department of Agriculture: Farmers Home Administration: Rural housing insurance fund (12-4141-0-3-371-01)	470	185	0	0
Department of Housing and Urban Development:				
Housing programs: Federal Housing Administration fund (86-4070-0-3-371-01)	104	158	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1979—Continued				
Function 370—Commerce and housing credit—Continued				
Government National Mortgage Association:				
Management and liquidating functions fund (86-4016-0-3-371-00)	0	−32	0	0
Special assistance functions fund (86-4205-0-3-371-01)	3	154	0	0
Participation sales fund (Mortgage credit and thrift) (86-4206-0-3-371-00)	0	0	0	0
Emergency mortgage purchase assistance (86-4207-0-3-371-00)	0	266	0	0
Guarantees of mortgage-backed securities (86-4238-0-3-371-00)	0	−42	0	0
Other Independent Agencies:				
Federal Deposit Insurance Corporation: Federal Deposit Insurance Corporation (51-8419-0-8-371-00)	0	−1,121	0	0
Federal Home Loan Bank Board:				
Federal Home Loan Bank Board revolving fund (82-4035-0-3-371-01)	0	−49	0	0
Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371-01)	0	−392	0	0
National Credit Union Administration:				
Credit union share insurance fund (25-4468-0-3-371-00)	0	−23	0	0
Central liquidity facility (25-4470-0-3-371-02)	0	0	0	0
Department of Commerce: Industry and Trade Administration: Miscellaneous trust funds (13-9972-0-7-376-01)	3	2	0	0
Department of the Treasury: Comptroller of the Currency: Assessment funds (20-8413-0-8-376-00)	0	−4	0	0
Department of Housing and Urban Development:				
Government National Mortgage Association: Participation sales fund (other advancement and regulation of commerce) (86-4206-0-3-376-00)	0	−4	0	0
Neighborhoods, Voluntary Associations, and Consumer Protection: Interstate land sales (86-5270-0-2-376-00)	0	0	0	0
Other Independent Agencies: National Consumer Cooperative Bank: National Consumer Cooperative Bank: (28-4001-0-3-376-00)	0	0	0	0
Function 370 total	580	−900	0	0
Function 450—Community and regional development:				
Department of Housing and Urban Development:				
Housing programs:				
Revolving fund (liquidating programs) (86-4015-0-3-451-01)	1	11	0	0
Revolving fund (liquidating programs) (86-4015-0-3-451-02)	0	0	0	0
Government National Mortgage Association: Participation sales fund (Community development) (86-4026-0-3-451-00)	0	2	0	0
New Communities Development Corporation: New communities fund (86-4327-0-3-451-00)	30	43	0	0
Other Independent Agencies: Federal Emergency Management Agency: National insurance development fund (58-4235-0-3-451-01)	0	11	0	0
Function 450 total	31	67	0	0
Function 500—Education, training, employment, and social services:				
Department of Housing and Urban Development:				
Housing programs: College housing—loans and other expenses (86-4058-0-3-502-01)	0	45	0	0
Government National Mortgage Association: Participation sales fund (Higher education) (86-4206-0-3-502-00)	0	−1	0	0
Function 500 total	0	45	0	0
Function 550—Health: Participation sales fund (Health research) (86-4206-0-3-552)	0	−1	0	0
Function 550 total	0	−1	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1979—Continued				
Function 600—Income security:				
Housing programs:				
Subsidized housing programs (86-0139-0-1-604-00)	38	0	0	0
Rental housing assistance fund (86-4041-0-3-604-00)	0	69	0	0
Function 600 total	38	69	0	0
Function 700—Veterans benefits and services:				
Government National Mortgage Association: Participation sales fund (Veterans housing) (86-4206-0-3-704-00)	0	−17	0	0
Veterans' Administration: Veterans' Administration: Direct loan revolving fund (36-4024-0-701-00)	0	−33	0	0
Function 700 total	0	−50	0	0
Function 800—General government:				
Department of the Treasury:				
Offsetting Receipts: Offsets (20-9992-8-1-800-00)	−20	−20	0	0
Office of the Secretary: Liquidation of Reconstruction Finance (20-4170-0-3-803-00)	0	0	0	0
Bureau of the Mint: Coinage profit fund (20-5811-0-2-803-00)	3	3	0	0
Function 800 total	−17	−17	0	0
Function 900—Interest:				
Bureau of Government Financial Operations: Interest on univested funds (20-1860-0-1-902-00)	8	8	0	0
General Services Administration: General activities: Refunds under Renegoitiation Act (47-0515-0-1-902-00)	0	0	0	1
Function 900 total	8	8	0	1
Committee total	640	−946	0	1
FISCAL YEAR 1980				
Function 050—National defense: Department of Defense—Military: Revolving and management funds: Defense production guarantees (97-9931-0-3-051-00)	0	0	0	0
Function 050 total	0	0	0	0
Function 150—International affairs:				
Department of the Treasury: Office of the Secretary: Exchange stabilization fund (20-4444-0-3-155-02)	0	−170	0	0
Other Independent Agencies: Export-Import Bank of the United States: Export-Import Bank of the United States (83-4027-0-3-155-00)	692	0	0	0
Function 150 total	692	−170	0	0
Function 370—Commerce and housing credit:				
Department of Agriculture: Farmers Home Administration: Rural housing insurance fund (12-4141-0-3-371-01)	268	271	0	0
Department of Housing and Urban Development:				
Housing programs: Federal Housing Administration fund (86-4070-0-3-371-01)	296	55	0	0
Government National Mortgages Association:				
Management and liquidating functions fund (86-4016-0-3-371-00)	0	−29	0	0
Special assistance functions fund (86-4205-0-3-371-01)	3	283	0	0
Participation sales fund (Mortgage credit and thrift) (86-4206-0-3-371-00)	0	3	0	0
Emergency mortgage purchase assistance (86-4207-0-3-371-00)	0	163	0	0
Guarantees of mortgage-backed securities (86-4238-0-3-371-00)	0	−49	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation arts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980—Continued				
Function 370—Commerce and housing credit—Continued				
Other Independent Agencies:				
Federal Deposit Insurance Corporation: Federal Deposit Insurance Corporation (51-8419-0-8-371-00)	0	−1,192	0	0
Federal Home Loan Bank Board revolving fund (82-4035-0-3-371-01)	0	−19	0	0
Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371-01)	0	−540	0	0
National Credit Union Administration:				
Credit union share insurance fund (25-4468-0-3-371-00)	0	−33	0	0
Central liquidity facility (25-4470-0-3-371-02)	1,200	0	0	0
Department of Commerce: Industry and Trade Administration: Miscellaneous trust funds (13-9972-0-7-376-01)	3	2	0	0
Department of the Treasury: Comptroller of the Currency: Assessment funds (20-8413-0-8-376-00)	0	−5	0	0
Department of Housing and Urban Development:				
Government National Mortgage Association: Participation sales fund (other advancement and regulation of commerce) (86-4206-0-3-376-00)	0	−5	0	0
Neighborhoods, Voluntary Associations, and Consumer Protection: Interstate land sales (86-5270-0-2-376-00)	0	0	0	0
Other Independent Agencies: National Consumer Cooperative Bank: National Consumer Cooperative Bank: (28-4001-0-3-376-00)	0	0	0	0
Function 370 total	1,771	−1,093	0	0
Function 450—Community and regional development:				
Department of Housing and Urban Development:				
Housing programs:				
Revolving fund (liquidating programs) (86-4015-0-3-451-01)	0	−7	0	0
Revolving fund (liquidating programs (86-4015-0-3-451-02)	0	26	0	0
Government National Mortgage Association: Participation sales fund (Community development) (86-4206-0-3-451-00)	0	1	0	0
New Communities Development Corporation: New communities fund (86-4237-0-3-451-00)	35	35	0	0
Other Independent Agencies: Federal Emergency Management Agency: National insurance development fund (58-4235-0-3-451-01)	0	14	0	0
Function 450 total	35	68	0	0
Function 500—Education, training, employment, and social services:				
Department of Housing and Urban Development:				
Housing programs: College housing—loans and other expenses (86-4058-0-3-502-01)	0	0	0	0
Government National Mortgage Association: Participation sales fund (Higher education) (86-4206-0-3-502-00)	0	−2	0	0
Function 500 total	0	−2	0	0
Function 550—Health: Participation sales fund (Health research) (86-4206-0-3-552)	0	0	0	0
Function 550 total	0	0	0	0
Function 600—Income security:				
Housing programs:				
Subsidized housing programs (86-0139-0-1-604-00)	40	0	0	0
Rental housing assistance fund (86-4041-0-3-604-00)	0	0	0	0
Function 600 total	40	0	0	0
Function 700—Veterans benefits and services:				
Government National Mortgage Association: Participation sales fund (Veterans housing) (86-4206-0-3-704-00)	0	−20	0	0
Veterans' Administration: Veterans' Administration: Direct loan revolving fund (36-4024-0-3-704-00)	0	−165	0	0
Function 700 total	0	−186	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980—Continued				
unction 800—General government:				
Department of the Treasury:				
Offsetting Receipts: Offsets (20-9992-0-1-800-00)	0	0	0	0
Office of the Secretary: Liquidation of Reconstruction Finance (20-4170-0-3-803-00)	0	0	0	0
Bureau of the Mint: Coinage profit fund (20-5811-0-2-803-00)	3	3	0	0
Function 800 total	3	3	0	0
Function 900—Interest:				
Bureau of Government Financial Operations: Interest on uninvested funds (20-1860-0-1-902-00)	8	8	0	0
General Services Administration: General activities: Refunds under Renegoliation Act (47-0515-0-1-902-00)	0	0	0	0
Function 900 total	8	8	0	0
Committee total	2,548	−1,373	0	0
FISCAL YEAR 1981				
Function 050—National defense: Department of Defense—Military: Revolving and management funds: Defense production guarantees (97-9931-0-3-051-00)	0	0	0	0
Function 050 total	0	0	0	0
Function 150—International affairs:				
Department of the Treasury: Office of the Secretary: Exchange Stabilization Fund (20-4444-0-3-155-02)	0	−164	0	0
Other Independent Agencies: Export-Import Bank of the United States: Export-Import Bank of the United States (83-4027-0-3-155-00)	1,882	0	0	0
Function 150 total	1,882	−164	0	0
Function 370—Commerce and housing credit:				
Department of Agriculture: Farmers Home Administration: Rural housing insurance fund (12-4141-0-3-371-01)	696	801	0	0
Department of Housing and Urban Development:				
Housing programs: Federal Housing Administration fund (86-4070-0-3-371-01)	270	14	0	0
Government National Mortgage Association:				
Management and liquidating functions fund (86-4016-0-3-371-00)	0	−14	0	0
Special assistance functions fund (86-4205-0-3-371-01)	3	313	0	0
Participation sales fund (Mortgage credit and thrift) (86-4206-0-3-371-00)	0	3	0	0
Emergency mortgage purchase assistance (86-4207-0-3-371-00)	0	143	0	0
Guarantees of mortgage-backed securities (86-4238-0-3-371-00)	0	−52	0	0
Other Independent Agencies:				
Federal Deposit Insurance Corp.: Federal Deposit Insurance Corp. (51-8419-0-8-371-00)	0	−1,056	0	0
Federal Home Loan Bank Board:				
Federal Home Loan Bank Board revolving fund (82-4035-0-3-371-01)	0	−21	0	0
Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371-01)	0	−576	0	0
National Credit Union Administration:				
Credit union share insurance fund (25-4468-0-3-371-00)	0	−42	0	0
Central liquidity facility (25-4470-0-3-371-02)	0	0	0	0
Department of Commerce: Industry and Trade Administration: Miscellaneous trust funds (13-9972-0-7-376-01)	3	2	0	0
Department of the Treasury: Comptroller of the Currency: Assessment funds (20-8413-0-8-376-00)	0	−5	0	0
Department of Housing and Urban Development:				
Government National Mortgage Association: Participation sales fund (other advancement and regulation of commerce) (86-4206-0-3-376-00)	0	−5	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1981—Continued				
Function 370—Commerce and housing credit—Continued				
Department of Housing and Urban Development—Con.				
Neighborhoods, Voluntary Associations, and Consumer Protection: Interstate land sales (86-5270-0-2-376-00)	0	0	0	0
Other Independent Agencies: National Consumer Cooperative Bank: National Consumer Cooperative Bank: (28-4001-0-3-376-00)	0	0	0	0
Function 370 total	972	−494	0	0
Function 450—Community and regional development:				
Department of Housing and Urban Development:				
Housing programs:				
Revolving fund (liquidating programs) (86-4015-0-3-451-01)	1	−23	0	0
Revolving fund (liquidating programs (86-4015-0-3-451-02)	0	−78	0	0
Government National Mortgage Association: Participation sales fund (Community development) (86-4206-0-3-451-00)	0	2	0	0
New Communities Development Corporation: New communities fund (86-4237-0-3-451-00)	37	36	0	0
Other Independent Agencies: Federal Emergency Management Agency: National insurance development fund (58-4235-0-3-451-01)	0	19	0	0
Function 450 total	37	44	0	0
Function 500—Education, training, employment, and social services:				
Department of Housing and Urban Development:				
Housing programs: College housing—loans and other expenses (86-4058-0-3-502-01)	0	0	0	0
Government National Mortgage Association: Participation sales fund (Higher education) (86-4206-0-3-502-00)	0	4	0	0
Function 500 total	0	4	0	0
Function 550—Health: Participation sales fund (Health research (86-4206-0-3-552)	0	0	0	0
Function 550 total	0	0	0	0
Function 600—Income security:				
Housing programs:				
Subsidized housing programs (86-0139-0-1-604-00)	0	0	0	0
Rental housing assistance fund (86-4041-0-3-604-00)	0	0	0	0
Function 600 total	0	0	0	0
Function 700—Veterans benefits and services:				
Government National Mortgage Association: Participation sales fund (Veterans housing) (86-4206-0-3-704-00)	0	−3	0	0
Veterans' Administration: Veterans' Administration: Direct loan revolving fund (36-4024-0-3-704-00)	0	−67	0	0
Function 700 total	0	−70	0	0
Function 800—General government:				
Department of the Treasury:				
Offsetting Receipts: Offsets (20-9992-8-1-800-00)	0	0	0	0
Office of the Secretary: Liquidation of Reconstruction Finance (20-4170-0-3-803-00)	0	0	0	0
Bureau of the Mint: Coinage profit fund (20-5811-0-2-803-00)	3	3	0	0
Function 800 total	3	3	0	0
Function 900—Interest:				
Bureau of Government Financial Operations: Interest on univested funds (20-1860-0-1-902-00)	8	8	0	0
General Services Administration: General activities: Refunds under Renegotiation Act (47-0515-0-1-902-00)	0	0	0	0
Function 900 total	8	8	0	0
Committee total	2,903	−756	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1982				
Function 050—National defense: Department of Defense—Military: Revolving and management funds: Defense production guarantees (97-9931-0-3-051-00)	122	122	0	0
Function 050 total	122	122	0	0
Function 150—International Affairs:				
Department of the Treasury: Office of the Secretary: Exchange stabilization fund (20-4444-0-3-155-02)	0	−174	0	0
Other Independent Agencies: Export-Import Bank of the United States: Export-Import Bank of the United States (83-4027-0-3-155-00)	1,964	0	0	0
Function 150 total	1,964	−174	0	0
Function 370—Commerce and housing credit:				
Department of Agriculture: Farmers Home Administration: Rural housing insurance fund (12-4141-0-3-371-01)	772	935	0	0
Department of Housing and Urban Development:				
Housing programs: Federal Housing Administration fund (86-4070-0-3-371-01)	239	−32	0	0
Government National Mortgage Association:				
Management and liquidating functions fund (86-4016-0-371-00)	0	−13	0	0
Special assistance functions fund (86-4205-0-3-371-01)	3	323	0	0
Participation sales fund (Mortgage credit and thrift) (86-4206-0-3-371-00)	0	3	0	0
Emergency mortgage purchase assistance (86-4207-0-3-371-00)	0	−115	0	0
Guarantees of mortgage-backed securities (86-4238-0-3-371-00)	0	−56	0	0
Other Independent Agencies:				
Federal Deposit Insurance Corp.: Federal Deposit Insurance Corp. (51-8719-0-8-371-00)	0	−1,024	0	0
Federal Home Loan Bank Board:				
Federal Home Loan Bank Board revolving fund (82-4035-0-3-371-01)	0	−22	0	0
Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371-01)	0	−617	0	0
National Credit Union Administration:				
Credit union share insurance fund (25-4468-0-3-371-00)	0	−47	0	0
Central liquidity facility (25-4470-0-3-371-02)	0	0	0	0
Department of Commerce: Industry and Trade Administration: Miscellaneous trust funds (13-9972-0-7-376-01)	3	2	0	0
Department of the Treasury: Comptroller of the Currency: Assessment funds (20-8413-0-8-376-00)	0	−5	0	0
Department of Housing and Urban Development:				
Government National Mortgage Association: Participation sales fund (other advancement and regulation of commerce) (86-4206-0-3-376-00)	0	−5	0	0
Neighborhoods, Voluntary Associations, and Consumer Protection: Interstate land sales (86-5270-0-2-376-00)	0	0	0	0
Other Independent Agencies: National Consumer Cooperative Bank: National Consumer Cooperative Bank: (28-4001-0-3-376-00)	20	20	0	0
Function 370 total	1,038	−652	0	0
Function 450—Community and regional development:				
Department of Housing and Urban Development:				
Housing programs:				
Revolving fund (liquidating programs) (86-4015-0-3-451-01)	0	−31	0	0
Revolving fund (liquidating programs (86-4015-0-3-451-02)	0	−93	0	0
Government National Mortgage Asscoiation: Participation sales fund (Community development) (86-4206-0-3-451-00)	0	2	0	0
New Communities Development Corporation: New Communities fund (86-4237-0-3-451-00)	42	41	0	0
Other Independent Agencies: Federal Emergency Management Agency: National insurance development fund (58-4235-0-3-451-01)	0	24	0	0
Function 450 total	42	−58	0	0

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1982—Continued				
Function 500—Education, training, employment, and social services:				
Department of Housing and Urban Development:				
Housing programs: College housing—loans and other expenses (86-4058-0-3-502-01)	0	0	0	0
Government National Mortgage Association: Participation sales fund (Higher education) (86-4206-0-3-502-00)	0	4	0	0
Function 500 total	0	4	0	0
Function 550—Health: Participation sales fund (Health research (86-4206-0-3-552)	0	0	0	0
Function 550 total	0	0	0	0
Function 600—Income security:				
Housing programs:				
Subsidized housing programs (86-0139-0-1-604-00)	0	0	0	0
Rental housing assistance fund (86-4041-0-3-604-00)	0	0	0	0
Function 600 total	0	0	0	0
Function 700—Veterans benefits and services:				
Government National Mortgage Association: Participation sales fund (Veterans housing) (86-4206-0-3-704-00)	0	−3	0	0
Veterans' Administration: Veterans' Administration: Direct loan revolving fund (36-4024-0-3-704-00)	0	−62	0	0
Function 700 total	0	−65	0	0
Function 800—General government:				
Department of the Treasury:				
Offsetting Receipts: Offsets (20-9992-8-1-800-00)	0	0	0	0
Office of the Secretary: Liquidation of Reconstruction Finance (20-4170-0-3-803-00)	0	0	0	0
Bureau of the Mint: Coinage profit fund (20-5811-0-2-803-00)	4	4	0	0
Function 800 total	4	4	0	0
Function 900—Interest:				
Bureau of Government Financial Operations: Interest on uninvested funds (20-1860-0-1-902-00)	9	9	0	0
General Services Administration: General activities: Refunds under Renegotiation Act (47-0515-0-1-902-00)	0	0	0	0
Function 900 total	9	9	0	0
Committee total	3,179	−811	0	0

Calendar No. 228

96TH CONGRESS
1st Session
SENATE
REPORT
No. 96–212

SPEEDY TRIAL ACT AMENDMENTS ACT OF 1979

JUNE 13 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. BIDEN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 961]

The Committee on the Judiciary, to which was referred the bill
S. 961) to amend the Speedy Trial Act of 1974, having considered
ne same, reports favorably thereon with an amendment and recom-
ends that the bill as amended do pass.

The amendment is as follows:

Page 1, strike out all after the enacting clause and insert in lieu
ereof the following:

at this Act may be cited as the "Speedy Trial Act Amendments Act of 1979".
SEC. 2. Section 3161(c) of title 18, United States Code, is amended to read as
lows:
"(c)(1) In any case in which a plea of not guilty is entered, the trial of a
fendant charged in an information or indictment with the commission of an
ense shall commence within seventy days from the filing date (and making
blic) of the information or indictment, or from the date the defendant has
peared before a judicial officer of the court in which such charge is pending,
ichever date last occurs. If a defendant consents in writing to be tried before
nagistrate on a complaint, the trial shall commence within seventy days from
date of such consent.
"(2) Unless the defendant consents in writing to the contrary, the trial shall
commence less than thirty days from the date on which the defendant first
ears through counsel or expressly waives counsel and elects to proceed pro
.
EC. 3. (a) Section 3161(d) of that title is amended—
(1) by inserting "(1)" immediately after "(d)"; and
(2) by adding at the end the following new paragraph:
(2) If the defendant is to be tried upon an indictment or information dis-
sed by a trial court and reinstated following an appeal, the trial shall com-
ce within seventy days from the date the action occasioning the trial becomes
, except that the court retrying the case may extend the period for trial not
xceed one hundred and eighty days from the date the action occasioning the
becomes final if the unavailability of witnesses or other factors resulting
the passage of time shall make trial within seventy days impractical. The

periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

(b) Section 3161(e) is amended—

(1) by striking out "sixty" wherever it appears and inserting in lieu thereof "seventy"; and

(2) by adding at the end the following: "The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

Sec. 4. Section 3161(h)(1) of that title is amended to read as follows:

"(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

"(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

"(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

"(C) delay resulting from deferral of prosecution pursuant to sectio 2902 of title 28, United States Code;

"(D) delay resulting from trial with respect to other charges agains the defendant;

"(E) delay resulting from any interlocutory appeal;

"(F) delay resulting from any pretrial motion, from the filing of th motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

"(G) delay resulting from any proceeding relating to the transfer o a case or the removal of any defendant from another district under th Federal Rules of Criminal Procedure;

"(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalizatio except that any time consumed in excess of ten days from the date o order of removal or an order directing such transportation and the defendant's arrival at the destination shall be presumed to be unreasonable;

"(I) delay resulting from consideration by the court of a propose plea agreement to be entered into by the defendant and the attorney f the Government; and

"(J) delay reasonably attributable to any period, not to exceed thir days, during which any proceeding concerning the defendant is actual under advisement by the court.".

Sec. 5. (a) Section 3161(h)(8)(B)(ii) of that title is amended to read follows:

"(ii) Whether the case is so unusual or so complex, due to the number defendants, the nature of the prosecution, or the existence of novel questio of fact or law, that it is unreasonable to expect adequate preparation f pretrial proceedings or for the trial itself within the time limits establishe by this section.".

(b) Section 3161(h)(8)(B)(iii) of that title is amended to read as follow

"(iii) Whether, in a case in which arrest precedes indictment, delay in t filing of the indictment is caused because the arrest occurs at a time su that it is unreasonable to expect return and filing of the indictment with the period specified in section 3161(b), or because the facts upon which t grand jury must base its determination are unusual or complex.".

(c) Section 3161(h)(8)(B) of that title is further amended by adding at t end the following new clause:

"(iv) Whether the failure to grant such a continuance in a case whi taken as a whole, is not so unusual or so complex as to fall within cla (ii), would deny the defendant reasonable time to obtain counsel, wo unreasonably deny the defendant or the Government continuity of couns or would deny counsel for the defendant or the attorney for the Governme the reasonable time necessary for effective preparation, taking into accou the exercise of due diligence.".

Sec. 6. Section 3163(c) of that title is amended to read as follows:

"(c) Subject to the provisions of section 3174(c), section 3162 of t chapter shall become effective and apply to all cases commenced by arr or summons, and all informations or indictments filed, on or after July 1, 1981.".

SEC. 7. Section 3164 of that title is amended—

(1) by amending the section heading to reads as follows:

"§ 3164. PERSONS DETAINED OR DESIGNATED AS BEING OF HIGH RISK";

(2) by amending subsection (a) to read as follows:

"(a) The trial or other disposition of cases involving—

"(1) a detained person who is being held in detention solely because he is awaiting trial, and

"(2) a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk, shall be accorded priority. "; and

(3) by amending subsection (b) to read as follows:

"(b) the trial of any person described in subsection (a)(1) or (a)(2) of this section shall commence not later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section.".

SEC. 8. Section 3165(e) of that title is amended—

(1) in paragraph (2), by striking out "subsequent" and inserting in lieu thereof "fifth", and

(2) by adding at the end the following:

"(3) Prior to the expiration of the sixty-calendar-month period following July 1, 1975, each United States district court shall prepare and submit a plan in accordance with subsections (a) through (d) to govern the trial or other disposition of offenses within the jurisdiction of such court during the sixth and subsequent twelve-calendar-month periods following the effective date of subsection 3161(b) and subsection 3161(c) in effect prior to the date of enactment of this paragraph.".

SEC. 9. (a) Section 3166(b) of that title is amended—

(1) in paragraph (7), by striking out 'and" immediately after the semicolon;

(2) in paragraph (8), by striking out the period and inserting in lieu thereof "; and "; and

(3) by adding at the end the following new paragraph:

"(9) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in the district.".

(b) Section 3166(c) of that title is amended—

(1) in paragraph (5), by striking out "and" immediately after the semicolon;

(2) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7)(A) the number of new civil cases filed in the twelve-calendar-month period preceding the submission of the plan;

"(B) the number of civil cases pending at the close of such period; and

"(C) the increase or decrease in the number of civil cases pending at the close of such period, compared to the number pending at the close of the previous twelve-calendar-month period, and the length of time each such case has been pending.".

(c) Section 3166 of that title is further amended by adding at the end the following new subsection:

"(f) Each plan may be accompanied by guidelines promulgated by the judicial council of the circuit for use by all district courts within that circuit to implement and secure compliance with this chapter.".

(d) Section 3168(a) of that title is amended by striking out "a private attorney experienced in the defense of criminal cases in the district" and inserting in lieu thereof "two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district".

(e) Section 3167 of that title is amended—

(1) in subsection (b), by adding at the end the following: "Such reports shall also include the following:

"(1) The reasons why, in those cases not in compliance with the time limits of subsections (b) and (c) of section 3161, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay.

"(2) The category of offenses, the number of defendants, and the number of counts involved in those cases which are not meeting the time limits specified in subsections (b) and (c) of section 3161.

"(3) The additional judicial resources which would be necessary in order to achieve compliance with the time limits specified in subsections (b) and (c) of section 3161.

"(4) The nature of the remedial measures which have been employed to improve conditions and practices in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter.

"(5) If a district has experienced difficulty in complying with this chapter, but an application for relief under section 3174 has not been made, the reason why such application has not been made.

"(6) The impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in each district as demonstrated by the information assembled and statistics compiled and submitted under sections 3166 and 3170.";

(2) by adding at the end the following new subsection:

"(c) Not later than December 31, 1980, the Department of Justice shall prepare and submit to the Congress a report which sets forth the impact of the implementation of this chapter upon the office of the United States Attorney in each district and which shall also include—

"(1) the reasons why, in those cases not in compliance, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay;

"(2) the nature of the remedial measures which have been employed to improve conditions and practices in the offices of the United States Attorneys in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter;

"(3) the additional resources for the offices of the United States Attorneys which would be necessary to achieve compliance with the time limits of subsections (b) and (c) of section 3161;

"(4) suggested changes in the guidelines or other rules implementing this chapter or statutory amendments which the Department of Justice deems necessary to further improve the administration of justice and meet the objectives of this chapter; and

"(5) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the litigation of civil cases by the offices of the United States Attorneys and the rule changes, statutory amendments, and resources necessary to assure that such litigation is not prejudiced by full compliance with this chapter."

(f) Section 3170(a) of that title is amended in the first sentence—

(1) by striking out "and" after "process" and inserting in lieu thereof a comma;

(2) by inserting a comma after "limits";

(3) by inserting "continuous and permanent compliance with the" immediately before "objectives"; and

(4) by striking out "required by" and inserting in lieu thereof "described in".

Sec. 10. Section 3174 of that title is amended—

(1) by striking out the period after the first sentence in subsection (a) and inserting in lieu thereof the following: "as provided in subsection (b).";

(2) by striking the first two sentences of subsection (b) and inserting the following in lieu thereof: "If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) in such district for a period of time not to exceed one year for the trial of cases for which indictments or informations are filed during such one-year period.";

(3) by striking out "arrangement" in the third sentence of subsection (b) and inserting in lieu thereof "arraignment";

(4) by amending subsection (c) to read as follows:

"(c)(1) If, prior to July 1, 1981, the chief judge of any district concludes, with the concurrence of the planning group convened in the district, that the district is prepared to implement the provisions of section 3162 in their entirety, he may apply to the judicial council of the circuit in which the district is located to implement such provisions. Such application shall show the degreee of compliance in the district with the time limits set forth in subsections (b) and (c) of section 3161 during the twelve-calendar-month period preceding the date of such application and shall contain a proposed order and schedule for such implementation, which includes the date on which the provisions of section 3162 are to become effective in the district, the effect such implementation will have upon such district's practices and procedures, and provision for adequate notice to all interested parties.

"(2) After review of any such application, the judicial council of the circuit shall enter an order implementing the provisions of section 3162 in their entirety in the district making application, or shall return such application to the chief judge of such district, together with an explanation setting forth such council's reasons for refusing to enter such order.";

(5) by adding at the end the following:

"(d)(1) The approval of any application made pursuant to subsections (a) or (c) by a judicial council of a circuit shall be reported within ten days to the Director of the Administrative Office of the United States Courts, together with a copy of the application, a written report setting forth in sufficient detail the reasons for granting such application, and, in the case of an application made pursuant to subsection (a), a proposal for alleviating congestion in the district.

"(2) The Director of the Administrative Office of the United States Courts shall forthwith transmit such report to the Congress and to the Judicial Conference of the United States. The judicial council of the circuit shall not grant a suspension to any district within six months following the expiration of a prior suspension without the consent of the Congress.

"(3) If the judicial council concludes that an additional period of suspension within such six-month period is necessary, it shall report that conclusion to the Judicial Conference of the United States, together with the application from the district court for such additional period of suspension and any other pertinent information. If the Judicial Conference agrees that such additional period of suspension is necessary, it may request the consent of the Congress thereto. If the Congress fails to act on any such request within six months, the suspension may be granted for an additional period not to exceed one year.

"(e) If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the limits suspended for a period not to exceed thirty days. Within ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a)."; and

(6) by amending the section heading to read as follows:

"§ 3174. JUDICIAL EMERGENCY AND IMPLEMENTATION".

Sec. 11. (a) The item relating to section 3164 in the table of sections for chapter 208 of such title is amended to read as follows:

"3164. Interim limits.".

(b) The item relating to section 3174 in the table of sections for chapter 208 of such title is amended to read as follows:

"3174. Judicial emergency and implementation.".

Sec. 12. The amendments made by this Act shall take effect on July 1, 1979.

I. Background

Four and one-half years ago, the Congress enacted the Speedy Trial Act of 1974, (hereinafter "The Act") which was approved by then-President Ford on January 3, 1975. The Act's passage represented the culmination of four years' study, debate and refinement by this Committee—principally through former Senators Ervin and Hruska, the late Senator McClellan and Senator Thurmond—and extensive consultation with the Federal Judiciary, the Department of Justice, the American Bar Association and a host of others vitally concerned with the administration of Federal criminal justice. It passed both Houses with overwhelming bipartisan support.

In the main, the Act is the first embodiment with force of national law to quantify, balance and implement the various guarantees implicit in the command of the Sixth Amendment which provides that, "(i)n all criminal prosecutors, the accused shall enjoy the right to a speedy and public trial . . ." While it is obvious that that right accrues naturally to a criminal defendant, the Supreme Court observed, seventy-five years ago, that the guarantee protects society as well, although those interests may sometimes be at odds. As is the case with all other individual rights conferred by the Constitution, the right to speedy trial can be invoked—or waived—only by the person seeking its protection. Practically speaking, in a memory dependent system, it may better serve the defendant's interest in avoiding conviction to create unreasonable delay. The ramifications are highly prejudicial to the public interest. Not only does the individual escape accountability and punishment for his or her illegal act, but, more importantly, any potential deterrent value resulting from punishment is lost, the danger of recidivism (both awaiting and after trial) is increased and confidence in the fairness and administration of criminal justice is undermined.

Alarming increases in Federal and State court backlogs through the Nineteen-sixties and the Federal courts' professed inability to gauge the constitutional implications of competing speedy trial interests other than on a case-by-case basis made the need for an extrajudicial solution apparent. The American Bar Association issued its "Standards Relating to Speedy Trial" in 1968 as a legislative model for codifying, balancing and applying in normal practice the several Sixth Amendment speedy trial guarantees. On July 5, 1971, the United States Court of Appeals for the Second Circuit implemented its own "Rules Regarding Prompt Disposition of Criminal Cases," which drew heavily upon the ABA Guidelines. Similarly, the Judicial Conference of the United States promulgated Rule 50(b) of the Federal Rules of Criminal Procedure, requiring all district courts to prepare and adopt plans for the prompt disposition of criminal cases and conduct continuing studies of the administration of criminal justice, which became effective October 1, 1972.

Congressional scrutiny of these alternative proposals revealed a fundamental weakness in each and pointed the way toward a legislative solution to the problems exposed by them. The ABA Guidelines were, for the most part, ignored by State and Federal courts. The existence of several loopholes in the Second Circuit's rules led to conflicting interpretations and results. Lack of incentives to promote uniformity of implementation and enforcement of new Federal Rule 50(b) led to inconsistent plans and rules in the districts which did little more than encourage "the perpetuation of the status quo."

The Act builds upon the lessons of those earlier efforts. It reflects the legislative judgment that to insure that the societal interest in

rompt administration of justice not be subordinated to less important,
rstemic concerns is to require, as a matter of law, that criminal
ses be tried within a fixed period coupled with meaningful penalties
r failure to do so. Consequently, the Act combines fixed time periods
d sanctions with provisions which afford the flexibility to handle
th the unusual case or other practical problems certain to arise dur-
g the temporary and permanent implementation of its primary
licies. Together, these may be summarized as follows:

TIME LIMITS [§ 3161(b), (c)]

As enacted, the permanent time provisions, which will take effect
July 1, 1979 require that a defendant be indicated within thirty days
arrest or service of summons, that the defendant be arraigned within
n days of indictment, and that, when a plea of not guilty is entered,
e defendant be tried within sixty days of arraignment. If indict-
ent precedes arrest, the ten-day period to arraingnment does not be-
n until the defendant's first appearance before a judicial officer in
e district within which he is to be tried. These time limits, like those
greater duration contained in pre-act formulations described above,
mmence whether or not the defendant demands a trial but, unlike
em, the Act also mandates that the trial be scheduled "at the earliest
acticable time . . . so as to assure a speedy trial.

Taken together, the "day certain" scheduling requirement and "start-
g the clock" at identifiable points in the criminal justice process,
hether or not the defendant demands trial, reflect the importance
tached by Congress to the enforcement of the public's and the
efendant's—right to speedy trials. Despite criticism that they are
bitrary and unrealistic, the permanent time limits are based on evi-
ence presented to the Congress that the likelihood of further criminal
tivity by defendants on pretrial release increased significantly if not
ied within sixty days. Moreover, contemporary studies concluded
at faster and more efficient criminal processing would increase the
eterrent effect on the law, aid rehabilitation of convicted offenders
d reduce crime.

At the time passage of the Act was under consideration in the Con-
ress, there also existed significant evidence that the Federal judiciary
w merit in, and supported, speedy disposition of the American Bar
ssociation in August, 1970, Mr. Chief Justice Berger stated:

> If ever the law is to have genuine deterrent effect on the
> criminal conduct giving us immediate concern, we must make
> some drastic changes. The most simple and obvious remedy
> is to give the courts the manpower and tools—including the
> prosecutors and defense lawyers—to try criminal cases within
> sixty days after indictment * * * I predict it would sharply
> reduce the crime rate.

In testimony before the House Subcommittee on Crime in Sep-
mber of 1974, the Honorable Alfonso J. Zirpoli, a judge of the
nited States District Court for the Northern District of California
d Chairman of the Committee on the Administration of the Criminal
w of the Judicial Conference, commented on the potential impact of
e ultimate time limits:

> * * * At the outset, I emphasize that the time limits provided in (the Senate bill) from arrest to indictment and indictment to trial for Federal criminal defendants are entirely acceptable to the Federal judiciary and give us no particular concern. For we are confident that long before the 7-year phase-in period covered by the bill, we of the Federal judiciary will have achieved all of its present objectives under present procedures and in particular, the District Court plans adopted pursuant to Rule 50(b) of the Federal Rules of Criminal Procedure, and that absent dramatic and unforeseen increases in Federal crimes, this can be accomplished whether we do or do not receive additional resources, personnel, and facilities which (the bill) would mandate.

The final time limits are not totally inflexible. If an individual is charged with a felony in a district in which no grand jury has been in session during the thirty-day arrest-indictment period, the time for filing of the indictment is extended automatically to sixty days. Furthermore, the Act provides that specific periods of time may be excluded from the limits, e.g. hearings on pre-trial motions. (See discussion below.)

SANCTIONS [§ 3162]

In its speedy trial guidelines issued eleven years ago, the American Bar Association recommended that failure to bring a defendant to trial within a fixed period, less excludable delays, should result in absolute discharge, forever barring prosecution for the offense charged and for any other offense required to be joined with that offense. In its accompanying commentary, the ABA stated:

> The position taken here is that the only effective remedy for denial of speedy trial is absolute and complete discharge. If, following undue delay in going to trial, the prosecution is free to commence prosecution gain for the same offence [sic], subject only to the running of the statute of limitations, the right to speedy trial is largely meaningless. Prosecutors who are free to commence another prosecution later have not been deterred from undue delay.

The Department of Justice's initial position on severe sanctions to make the societal interest in speedy trial enforceable in a meaningful way was similar and well-stated by then-Assistant Attorney General William H. Rehnquist to this Committee in 1971:

> None of us interested in the administration of criminal justice, Mr. Chairman, whether inside or outside of the Government, whether within or without the bench and bar, can fail to be struck by the stark fact of intolerable delays in our system of administering criminal justice. The Department is of the view that some of the root causes of this unjustifiable delay may be sought out, identified, and dealt with, regardless of whether the solution for any particular facet of the problem tends to bear more heavily on one side of the criminal justice than the other.
>
> Therefore, we are unwilling to categorically oppose the mandatory dismissal provision. For it may well be Mr. Chair-

man, that the whole system of Federal justice needs to be shaken by the scruff of its neck, and brought up short with a relatively peremptory instruction to prosecutors, defense counsel and judges alike that criminal cases must be tried within a particular period of time. That is certainly the import of the mandatory dismissal provisions of your bill.

Thus, the Act provides that, once the ultimate time limits become effective on July 1, 1979, if a defendant is not indicated or tired within the specified period, tolled by excludable delays, infra, the court must, upon timely motion, dismiss either the charges or the indictment. In addition, to simultaneously protect the individual and societal rights to speedy trial, the court is afforded discretionary authority to punish counsel for intentional delay by levying fines.

Just as the time limits themselves are not without flexibility, the Act's sanctions provisions are fashioned to avoid unintended results. First, the defendant bears the affirmative burden of making a timely and proper motion for dismissal. Failure to do so constitutes waiver of the right thus buttressing the public's interest while protecting the individual's constitutional guarantee. Second, whether the charges or indictment are to be dismissed with prejudice (forever barring reprosecution), is within the discretion of the court, which must consider relevant factors before making such a decision, including the seriousness of the offense, the facts and circumstances causing the delay, the impact of reprosecution on the administration of the Act, and justice in general. Thus, despite the fact that both this Committee and the House Committee on the Judiciary recommended dismissal sanctions of greater severity, the Congress acceded to the position advanced by the Department of Justice that society's interests would be better served by assuring that the prospect of leaving serious criminal conduct unpunished for the sake of speed alone would not occur.

AUTOMATICALLY EXCLUDABLE DELAY [§ 3161(h)(1–7)]

Just as it concluded that the speedy trial protections afforded both the individual and society by the Sixth Amendment were largely meaningless without fixed time limits, the Congress also saw the need to build into those fixed limits sufficient flexibility to make compliance with them a realistic goal. In computing the time within which an information or indictment must be filed or the time within which a trial nust commence, the Act excludes from either computation specific nd recurring periods of time often found in criminal cases. These nclude periods consumed by:

(1) proceedings concerning the defendant, including mental or physical examinations. other trials, interlocutory appeals and pretrial motions (it would indeed be anomalous to permit the defendant to benefit from delay property undertaken to protect his interests in a fair adjudication of the charges against him by allowing dismissal without exclusion of that time);

(2) agreements to defer prosecution, since such agreements, properly entered into, advanced the various interests which the Act seeks to protect;

(3) the absence or unavailability of the defendant or of a witness essential to either the defendant or the Government;

(4) the defendant's inability to stand trial, resulting either from mental incompetence or physical disability;

(5) treatment of the defendant under the Narcotic Addict Rehabilitation Act;

(6) dismissal by the Government of an indictment or information and subsequent entry of the same charge, or a charge required by the constitutional doctrine of double jeopardy to be joined with it, against the same defendant (just as the defendant should not profit from delay he can create for his own tactical advantage, neither should the Government); and

(7) reasonable delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted, so as not to alter the traditional rules governing severance.

Thus, the Congress , with the active cooperation of the Department of Justice and other interested parties, made a conscientious effort to set forth with reasonable particularity the types of delay which, it hoped, would be excluded as a matter of practice consistent with the objectives to be served by the Act. Modifications made to serve that end were substantial following the introduction of the Act's legislative predecessors. Yet, by the same token, both this Committee and its House counterpart took pains to forestall the possibility that a desire to be instructively particular not be misinterpreted as exclusively inflexible. For example, this Committee, in commenting upon the types of delay automatically excluded under § 3161(h)(1), stated:

> At the suggestion of the Justice Department, the committee has enumerated in the text of the bill examples of what is meant by "proceedings concerning the defendant." The list is not intended to be exhaustive. It is representative of procedures of which a defendant might ligitimately seek to take advantage for the purpose of pursuing his defense.

DELAYS TO SERVE THE "ENDS OF JUSTICE" [§ 3161(h)(8)]

Congress' concern that the overall goal of giving the speedy trial right practical meaning not be destroyed by inflexibility did not end with the specified "exclusions" described above.

In addition, Congress gave the trial court the discretion either on motion of either party or sua sponte, to exclude reasonable periods of delay by granting a continuance, "if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." Termed by this Committee "the heart of the speedy trial scheme created by the Act, such continuances may be granted and that time excluded if the judge finds, either orally or in writing, that the existence or occurrence of factors peculiar to a given case require delay and that the ends of justice served thereby override both the public's and the defendant's speedy trial interest. Factors to be considered under the Act, "among others," include:

(1) Whether failure to grant a continuance would likely make continuation of the proceeding impossible, or result in a miscarriage of justice.

(2) whether the case, taken as a whole, is so unusual and so complex, for any of a variety of reasons, that it is unusual to expect adequate preparation within the time limits.

(3) whether, where arrest precedes indictment, delay after the grand jury proceedings have commenced is caused by the unusual complexity of the factual determination to be made or other events beyond the control of the court or the Government.

Again, considerable effort was expended during the Act's genesis to aggressively promote speedy trial goals without thwarting the ability of the Federal criminal justice system to serve the needs of justice on a case-by-case basis. Vague formulas were abandoned in favor of the more instructive statutory examples where continuances could be granted legitimately. At the same time, delay resulting from factors attributable to institutional lethargy—general calendar congestion, lack of diligent preparation, or failure of the Government to obtain available witnesses—is made specifically nonexcludable by discretionary continuance.

After citing numerous examples of occurrences which would support the entry of a proper "ends of justice" continuance, this Committee stated:

> However, as a general matter the Committee intends that, except for the above situations, this provision should be rarely used. Furthermore, even the above situations should be handled on a case-by-case basis with the court stating in writing the reasons why it believes that granting the continuance strikes the proper balance between the ends of justice on the one hand and the interest of society in a speedy trial and the interest of the defendant in a speedy trial on the other.

PHASE-IN [§3161(f), (g)]

To promote an orderly and, from all available evidence, suitable ransition from the date of enactment to the date upon which the ict's final time limits and sanctions were to become effective, the Con- ress established a four-year "phase-in" period. The "phase-in" was esigned to mesh with the passage of then-fiscal years and the calen- ar used by the Administrative Office of the United States Courts for e collection and compilation of year-end criminal case disposition ata. During the first "phase-in" year, no fixed time limits became fective, other than those governing the trial of detainees awaiting ial and persons designated by the attorney for the Government as ing "high risk", infra. This initial period, beginning July 1, 1975, d ending June 30, 1973, was set aside to give each Federal district ximum time to initiate and become experienced in the planning ocess set forth in the Act which the Congress believed would best ble them to prepare for final implementation, infra. Beginning on ly 1, 1976, time limits for the second "phase-in" year went into ct: sixty days between arrest and indictment ten days between ictment and arraignment and one hundred-eighty days between ignment and trial. These initial limits remained in effect until

June 30, 1977. Reduced intervals of forty-five, ten, and one hundred-twenty days, respectively, took effect for the period July 1, 1977–June 30, 1978. The fourth and final "phase-in" period—thirty-five, ten and eighty days, respectively—went into effect July 1, 1978. Throughout the entire period, no sanctions were imposed for failure by any district to observe any of the time intervals in any given year, except with respect to pretrial detainees and high-risk defendants.

INTERIM LIMITS [§ 3164]

To provide all districts some minimum speedy trial experience soon after enactment and throughout the "phase-in" period, and to encourage swift action to attain the objective of reducing recidivism the Act required all districts to prepare and implement by September 30, 1975, special "interim" plans for detained defendants and "high-risk" defendants released and awaiting trial. These plans require trial within ninety days for all detained persons and all defendants released and awaiting trial who had been designated by the attorney for the Government as being of "high risk." Rather than mandating the more severe remedy of dismissal in such cases, the sanctions to be imposed were pretrial release, in the case of detainees, and automatic review of release conditions, in the case of high-risk defendants. Under the terms of the Act, these interim plans, limits and sanctions will expire on June 30, 1979.

PLANNING, REPORTS, DATA COLLECTION AND IDENTIFICATION OF RESOURCE [§ 3165–70]

To encourage smooth and uniform implementation of the Act's final time limits and sanctions the Act required each district to convene a speedy trial planning group, the primary purpose of which was to prepare and submit to the Administrative Office plans for the implementation of the interim and final time limits. The planning provisions require system-wide cooperation—from the planning groups, convened and appointed in each district by the chief judge to represent the broadest possible spectrum of expertise and opinion. The planning groups through the judicial councils of each circuit and the Judicial Conference, with technical assistance from the Administrative Office and the Federal Judicial Center not only planned for the Act's final implementation but are also charged with continuous study of the administration of criminal justice in each district. They also identified and recommended possible solutions, to basic problems in the administration of criminal justice, whether arising under or affected by the Act. Commenting on the importance of the planning-implementation phase of the Act, the report of the House Committee said:

> The heart of the speedy trial/concept embodied in (the Act) is the planning process. The provisions recognize the fact that the Congress—by merely imposing uniform time limits for the disposition of criminal cases, without providing the mechanism for increasing the resources of the courts and helping to initiative criminal justice reform which would increase the efficiency of the system—is making a hollow

> promise out of the Sixth Amendment. The primary purpose of the planning process is to monitor the ability of the courts to meet the time limits of the bill and to supply the Congress with information concerning the effects of criminal justice administration of the time limits and sanctions, including the effects on the prosecution, the defense, the courts and the correctional process, and the need for additional rule changes and statutes which would operate to make speedy trial a reality.

The focal point of the planning process is the requirement for uniform data collection. The clerk of each district court was obliged to begin compiling, under the direction of the Administrative Office, information and statistics spelled out by the Act to enable the planning group to fulfill its responsibilities during the implementation period. In addition, the data was to be made available to all elements of the system, including the Administrative Office, to aid in the reporting and recommendation function, especially the establishment of "uniform national reporting standards."

Besides initiating a continuing study on the administration of riminal justice in the district, each planning group was required to prepare and submit a plan for the disposition of cases during the sec- nd and third "phase-in" years by June 30, 1976, and another for the ourth and subsequent years, following the effective data of the final ime limits and the dismissal sanction, by June 30, 1978. Obviously, the hief objective of the process was the acceleration of the disposition f criminal case in each district, consistent with the Act's interim metable. Other major benchmarks are set forth as well which are dicative of the Congress' desire to promote flexible but uniform in- rpretation:

> * * * The process shall seek to avoid underenforcement, overenforcement and discriminatory enforcement of the law, prejudice to the prompt disposition of civil litigation, and undue pressure as well as undue delay in the trial of criminal cases.

Pursuant to the annual reporting requirements contained in the anning provisions, the Administrative Office has been engaged in pervising the collection and compilation of speedy trial data in the tricts, the receipt and dissemination of district plans and recom- ndations to the Congress, made by the planning groups, the Judi- l Conference and the Director himself, for "rule changes, statutory endments, and appropriations needed to effectuate further improve- nts in the administration of justice in (each) district which can- be accomplished without such amendments or funds."

JUDICIAL EMERGENCY [§ 3174]

o lessen the potential impact of the Act in districts having difficulty neeting the Act's ultimate time limits, because of court congestion otherwise, and to prevent the havoc that unforeseen emergencies ht cause upon districts where no alternative solutions could be nd, the Act includes provisions which permit the chief judges of a rict to apply to the Judicial Conference, through the circuit council, for a suspension of the final arraignment-to-trial time limits for up to one year. If the Conference approves the application, the time for trial may be enlarged up to one hundred-eighty days, with the arrest-to-indictment limit for all cases, the time limit for trial to detainees and the sanctions remaining in effect. Furthermore, an additional one-year suspension may be made available, provided that certain statutorily-specified events occur.

SIXTH AMENDMENT RIGHTS [§ 3173]

Finally, the Act specifies that no provision in it is to be interpreted as a bar to a claim by a defendant that his or her rights to speedy trial under the Sixth Amendment have been violated. This Committee made its intent plain in reporting the bill:

> * * * [W]hile this bill would be an exercise of Congress' power to implement the Sixth Amendment, it is not intended to be, and obviously could not be, a conclusive interpretation precluding the courts from going beyond Congress if they found (that) the Sixth Amendment's speedy trial provision so required. Similarly, the courts, in interpreting the Sixth Amendment, could strike down a provision of this Act because in its [sic] view, the Sixth Amendment did not require it. * * * Congress may not do less than the Constitution requires, but it may do more.

II. The Need for Amendment

If general data generated by the Act's collection and reporting requirements and other more recent analyses of such data are to be believed, the prognosis for substantial compliance with the Act's final time limits is good. Available data indicates that most districts predict that they will be able to achieve substantial compliance with the permanent limits; in over 90 percent of the cases, the courts have been able to operate within the transitional time limits. A recent study conducted by the Office for Improvements in the Administration of Justice of the Department of Justice (OIAJ) found that the overall compliance rate in cases disposed of in the court year ending June 30, 1978, with the final time limits of the Act was 93 percent nationally—82 percent of those cases were brought to indictment from arrest within 30 days, 90 percent to arraignment from indictment within 10 days and 81 percent to trial from arraignment within 60 days; that is, four out of five cases terminated before June 30, 1978, were incompliance with the permanent strictures due to go into effect on July 1. Nine districts examined in detail showed similar compliance rates.

Reviewing the same national data, the General Accounting Office noted significant improvements in percentage-compliance rates with the final time limits by comparing the 1976–77 court year with the most recent one; the compliance rate increased from 78.8 to 82.5 percent in the first time interval, from 87.2 to 90.4 percent in the second and from 75 to 81.4 percent in the third. As of July 1, 1977, twenty of the ninety-five Federal districts elected to implement the Act's final time limits; eighteen of those districts have completed more than 80 percent of their criminal cases within the final time interval of 60 days, and the rate of completion for eleven of those is between 95 and 100 percent. Conversely, that means that districts still operating under the third-year, transitional "phase-in" limit achieved reasonably high rates of compliance with the final time limits.

In its third report on implementation of the Act, the Administrative Office concluded that it has had salutary effects on the administration of criminal justice in general, including:

More rapid disposition of criminal cases and a decrease in the criminal case backlog;

More efficient administrative procedures and improved cooperation and planning between the courts, United States Attorneys, clerks' offices and defense counsel;

Improved quality of justice in general;

Witnesses' memories remaining fresh and witnesses being more available; and

A greater association between punishment meted out and the crime, if the defendant is convicted.

Despite these general indications that substantial compliance would e forthcoming once the final time limits and the dismissal sanction ecame effective, both the Department of Justice and the Federal udiciary have petitioned the Congress to make substantial changes in he Act prior to that time. In September, 1977, and again last year. he Judicial Conference endorsed the general recommendations of its d Hoc Subcommittee on Speedy Trial, to, among other things, enrge the final time limits. Later this spring, the Attorney General ansmitted to this Committee on Executive Communication and draft gislation, also urging expansion of the time limits and several other nendments. In his accompanying letter, the Attorney General stated:

> The phase-in period for the Act has been monitored by the Administrative Office of the U.S. Courts, and the results of that monitoring have been reported to the Congress. Also, the Department of Justice recently has completed an intensive study of delays in the processing of criminal cases under the Act in nine representative judicial districts.
>
> The data contained in the reports of the Administrative Office and the Department of Justice indicate that, if current levels of compliance with the Act are maintained, a significant number of dismissals can be expected when the final time limits take effect on July 1, 1979. Specifically, dismissals could occur in as many as 17 percent of criminal cases filed; in 1978, this percentage represented 5,174 cases.

imilarly, at its semiannual meeting last month, the Conference of ropolitan Chief Judges unanimously urged the adoption of the licial Conference's proposed amendments, declaring:

> * * * If the Act is not amended, the results will be the release of some untold number of criminal defendants prior to any judicial determination of their guilt for the offenses for which they are charged.

st week, the Board of Governors of the American Bar Associa- endorsed earlier recommendations of the Section on Criminal , also calling for, inter alia, enlargement of the ultimate time s.

In view of these proposals and the seriousness of allegations accompanying them of the preemptory effect final implementation of the Act would have on the administration of Federal criminal justice, the Chairman of this Committee introduced by request, both the Department's bill, S. 961, on April 10, and the Conference's proposal, S. 1028. On April 26th Committee hearings were scheduled and chaired by Senator Biden, Chairman of the Subcommittee on Criminal Justice. On May 2, testimony was taken from Allen R. Voss, Director, General Government Division, General Accounting Office; Philip B. Heymann, Assistant Attorney General, Criminal Division, Department of Justice; and the Honorable Alexander Harvey, II, Judge, United States District Court for the District of Maryland and Chairman, Committee on the Administration of the Criminal Law, Judicial Conference of the United States. On May 10, the Committee heard Daniel J. Freed, Esq., Professor of Law, Yale Law School; John D. Cleary, Executive Director, Federal Defenders of San Diego, Inc., and Legislative Chairman, Defender Commission, National Legal Aid and Defender Association; David Isbell, Esq., Covington & Burling, Washington, D.C. representing the American Civil Liberties Union; Salvatore Martoche, National Association of Criminal Defense Lawyers; the Honorable Robert F. Peckham, Judge, United States District Court for the Northern District of California; and the Honorable Robert J. Ward, Judge, United States District Court for the Southern District of New York.

After analyzing the available evidence and data and carefully weighing the testimony of both proponents and opponents of change, this Committee concludes that a case cannot, at present, be made for a fundamental policy change in the Act by an enlargement of the time limits. Too little has been learned about the potential impact of the Act's permanent provisions to predict with certainty that those time limits will be injurious to the Federal criminal justice system in particular or the administration of justice in general. For precisely that reason, however, this Committee also finds that more and better experience under the Act's final time limits, without system-wide penalty, is needed to determine whether the basic goals of the Act and the means to implement them need to be altered in any way. Therefore, the Committee amendment incorporates a two-year deferral, from July 1 of this year to July 1, 1981 of the final implementation of the dismissal sanction.

To derive maximum benefit from such experience, this Committee further believes that several amendments of demonstrated necessity must be made at this time to clarify and strengthen existing provisions. The changes in the Act made by the Committee amendment in the nature of a substitute to S. 961, and their intended effect, are set forth more fully in the following section of this report. Set forth below is a discussion of the broader issues presented for consideration by this Committee.

III. Issues Presented

IMPACT OF THE TIME LIMITS AND DISMISSAL SANCTION

The contention of the Department and some Federal judges that available data supports a forecast of significant dismissals of criminal cases must be weighed carefully and critically. At the outset, it should be noted that the only data available for study, used both by the Department and the General Accounting Office in their respective studies, is now nearly a year old and was gathered in a period during which longer transitional time limits were in effect with no sanction imposed for exceeding them. In its analysis, the General Accounting Office sampled in detail the characteristics of each of 393 cases terminated in eight districts during the period ending June 30, 1977, in which court statistics showed that at least one of the three final time limits had been exceeded. The Office was told that in 103 of those cases, or 26 percent of the total, the ultimate time limits were not met simply because either the district was operating under longer transitional limits or the dismissal sanction was not in effect. Indeed, after reciting its dismissal projection, the Department's own study continues:

> Common sense indicates that such a level of dismissals will probably not in fact occur. Instead, it can be expected that, in response to the threat posed by the dismissal requirement, the work patterns of prosecutors and courts will adapt to the new situation, additional resources will be devoted to meeting the deadlines of the Act, and, in consequence, the dismissals will be held to a less drastic level.

Another disadvantage of making projections based on cases terminated prior to July 1, 1978 is that it is impossible to take into account the status of the criminal calendars and the implementation of the shorter, final "phase-in" time limits. When viewed against the backdrop of increased compliance rates in previous year and reductions of criminal case backlogs it is vital to know whether terminations and filings in criminal cases increased or decreased and, consequently, what reasons might be attributed to such fluctuations. Without such data, it is risky to assume that what will occur next month can be predicted on the basis of what, essentially, was planned for two years ago and which occurred approximately a year ago. The Committee declines to take such a step.

Two other points concerning the immediate effects of projected dismissals are worth mentioning. First, the Department's study identifies two important characteristics about most significant delays in noncompliance cases: only those cases involving drug-related offenses experienced significant delays, averaging forty days, and multi-defendant cases experienced longer delays than single-defendant cases. Second, the prospect of dismissal without prejudice, and attendant opportunity to reinstitute prosecution, depends upon the court's consideration of the seriousness of the offense, among other factors, and whether an "ends of justice" continuance may be had to exclude delay depends in part upon the number of defendants. Not knowing the full availability of these "safety valves" in any given prosecution further complicates a determination of the likelihood of truly prejudicial dismissal, at least from the Government's and society's point of view.

EXCLUDABLE DELAYS

By urging the Committee to expand the basic time limits and retain only several, narrowly defined exclusions to be "strictly construed," the Department advocates a fundamental policy shift in the Act. The Judicial Conference does likewise by making the same request for expansion of the limits and preferring more general excludable delays, with "reasonable" periods to be fixed at the discretion of the court.

The Committee is troubled to find evidence which suggests that, not only is the Act being interpreted to deny it most of its inherent flexibility, it remains practically "noninterpreted."

The most instructive example arose during the course of the hearings. On May 2, to illustrate the need for an expanded arraignment-trial time period, Assistant Attorney General Heymann cited a recent Departmental case of admitted complexity which, only through extraordinary effort, was brought to trial in 95 days. He states: "The only relief is under Section 3161(h)(8)." On May 10, Judge Ward, Chairman of the circuit committee which drafted the Second Circuit's new Guidelines Under the Speedy Trial Act, approved January 16, 1979, took the example cited, applied the guidelines to the facts, and said:

> My arithmetic, for what it is worth, shows we used up 24 days. I may be a day off, but it is close. Subtract 24 from 60. By my example, using the 60-day arraignment to trial period, you have 36 days left within which that case would be tried with no need for the judge to make any (§ 3161) (h)(8) determination. And, therefore—it may sound strange—but the way I have figured it out, you would have 11 days more available than the 25 would have were the clock inexorably ticking.

The point of that example is that the principal actors in the Federal criminal justice system are, for a variety of reasons, interpreting those provisions of the Act in an unnecessarily inflexible manner. Analysis of data collected on the incidence of, and reasons for, excludable delays—required by the Act—reveals an inconsistency of both interpretation and application. In all criminal cases terminated as of June 30, 1978, the Administrative Office reported that no excludable time was found or recorded in 75.6 percent of those cases. The General Accounting Office, in its survey of cases terminated during the same period in eight specific districts which exceeding the ultimate time limits, found that 22 percent of those cases in fact met the time limits but were reported as exceeding them because allowable excludable time had not been computed or had been computed improperly. The Department of Justice reached the same conclusion:

> In this connection, the OIAJ study found repeated and marked inconsistencies in the way in which some of the exclusions are being interpreted and applied by the courts. In some districts, for example, more than half the incidents prompting the exclusion of processing time were attributable to hearing and deciding pretrial motions, while in other districts these events produced not one instance of excluded processing time. Similarly, in one district, 80 percent of the examined cases experienced at least one incident of excluded processing time, while in another district the figure was only 4 percent.

Data gathered on the use of "ends of justice" continuances, which, as noted above, this Committee considered "the heart of the speedy trial scheme," is particularly instructive. The Administrative Office reported that, during the last full court year, such continuances comprised 16.2 percent of all incidents of delay. Again, the findings of the Department are in accord:

> * * * On a national scale, this category accounts for approximately one-third of all incidents of excluded processing time. Yet, in one sample district it accounted for two-thirds of excluded incidents and, in another sample district, almost none.

For that same year, the General Accounting Office found that only 5.6 percent of the defendants whose cases were terminated were granted a continuance. In the eight districts it surveyed closely, which included four of the country's busiest criminal jurisdictions, defendants were granted continuances in only 1.5 percent of the cases. In two of those districts, the number of defendants granted continuances was less than 1 percent of the total.

Various explanations are for apparent underutilization of the Act's "safety-value" exclusions. The Department study provides one:

> While continuation of inconsistences of this sort after the Act becomes fully effective will make compliance in some districts extremely difficult, and thus increase the likelihood of dismissals, it seems likely that more uniform and more realistic applications of the exclusions will occur. As one trial judge reassuringly expressed it during an OIAJ interview, greater use of the excludable time provisions will be made "when it counts", i.e., when the consequences for non-compliance is dismissal.

Other explanations are much less reassuring. The staff of the Fordham Law Review undertook a detailed survey of experience under the Act in three adjoining metropolitan districts. They found that,

> (i)n spite of the flexible application of section 3161(h)(8) intended by Congress, approximately half of the judges interviewed in the three districts construed the provision narrowly. The explanations for this reticence to grant excludable continuances ranged from hostility toward the Act to unfamiliarity with its provisions. One judge, whose antipathy was obvious, reasoned that "the best way to get rid of a bad law is to enforce it strictly." Several judges noted that granting continuances increased their administrative burden because they only "rented time"; postponed trials must be squeezed into time slots that may already be overcrowded. Others, perhaps unaware of the flexibility intended by the drafters, feared criticism that they would subvert the congressional mandate of speed if they did not try every case within sixty days.

Whether isolated or more widespread, such interpretations are inconsistent with congressional intent as to the policy objectives of the Act. As the House Committee stated in its report:

> The Committee believes that both delay and haste in the processing of criminal cases must be avoided; neither of these

> tactics inures to the benefit of the defendant, the Government, the courts nor society. The word speedy does not, in the Committee's view, denote assembly-line justice, but efficiency in the processing of cases which is commensurate with due process.

Neither hostility toward the Act nor fear of the consequences is a justifiable basis for interpretation which is so strict as to deny the spirit of it as well as its letter in application. The Committee does find, however, that some provisions of the Act, particularly with respect to excludable delays, deserve legislative clarification consistant with recommendations of the Department, the Judicial Conference and the defense bar. Moreover, existing legislative history with respect to the meaning of the exclusionary provisions and the probable frequency of their application may be unduly harsh, as a result of an overabundance of caution on the Judiciary Committees' part in reaction to contemporary expressions of hostility toward the Act.

Accordingly, the Committee amendment makes changes in several excludable time and continuance provisions to meet legitimate concerns; these changes, and their intended meaning, are expressed and explained in the next section.

The Committee must stress, at this juncture, that no amendment short of repeal and no amount of interpretive language could conceivably meet every objection and solve every problem arising from the Act's application in a practical setting. To attempt to do so would so constrict the Act as to hamstring its inherent flexibility and defeat its principal aims as a consequence. While the Administrative Office has demonstrated diligence and good faith in its efforts to guide the districts toward a reasonable application of the Act in practice, the Committee finds that, too often, the Administrative Office has erred on the side of caution. The Second Circuit has interpreted the Act and its legislative history in a creative manner which preserves its objectives and specifically addresses most of the problems which have hindered its smooth implementation, as Judge Ward's example, supra, demonstrates. After careful reading, the Committee is of the opinion that the Second Circuit guidelines are worthy of consideration by all the districts as a model for future implementation, consistent with presently-contemplated changes. The Committee invites every circuit council and district chief judge to give them the closest attention possible

COSTS OF COMPLIANCE

Troubling issues regarding possible collateral consequences if implementing the Act on schedule have been presented to this Committee which would be harmful to the administration of Federal criminal justice, exclusive of possible dismissals. If the thirty-day, arrest to indictment period is allowed to go into effect as enacted, the Department of Justice fears that fewer arrests of dangerous persons, fewer prosecutions of serious crimes and incomplete investigations will result. Should the second interval, indictment to arraignment, be allowed to go forward next month, judges, prosecutors and defense counsel fear that the resulting pressure will cause hastier and ineffective defense preparation prior to arraignment. Additional burdens of increased travel time in more sparsely-populated districts is a concern of all parties. The Committee heard testimony that implementation of the arraignment to trial time limit of sixty days on July 1 would have an adverse effect on plea bargaining, judicial efficiency and defense preparation. Finally, it is alleged that full implementation of the Act next month will deal a crushing blow to already overcrowded civil calendars.

ARREST—INDICTMENT

Assistant Attorney General Heymann testified that, in the year concluding last June 30, the number of cases commenced by arrest compared to the previous year decreased by more than half, from 18,849 to 9,169. He charged this decrease to the effect that contemplated compliance with the Act is having on prosecutorial arrest policies. The Department fears that, if arrests are deferred to avoid "starting the clock" on the first time interval, persons who might otherwise be detained will remain at large to continue their criminal activity.

Analyzing Mr. Heymann's statement, Prof. Freed made two points. First, the year-end data compiled by the Administrative Office excludes any data on cases not terminated that year in its totals, meaning that any case commenced by arrest during that period, but not terminated during that year would not be reflected in interval data at all. Therefore, the data upon which Mr. Heymann relies on is not an accurate measure of changes in Justice Department arrest policy. Second, Prof. Freed argues that a more accurate picture of actual arrest reductions can only be had by comparing arrest-indictment ratios disclosed by a given annual data base. Comparing actual arrests and indictments occurring in the years ending June 30, 1977, and June 30, 1978, Professor Freed calculated that the arrest-indictment ratio for the former was 40 percent and, for the latter, 31 percent, showing a decline in arrests of 9 percent. Using completed data for prior years as a predictive base by assuming that arrest patterns disclosed by the ratio would be similar, he speculated that the true reduction in arrests would be closer to 2,600 in the latter year.

There are other reasons for doubting the allegation that the Act has undercut prosecution and arrest policy, besides the present inability to determine with statistical precision how the Act is truly affecting these policies. First, less than a third of all criminal cases in the Federal system are commenced by arrest and the existence of other factors affecting the decision to arrest a criminal suspect independent of the fear of noncompliance with the Act—leaving the courier on the streets to lead investigators to "higher-ups" in the criminal chain in a arcotics case, for example—make it difficult to attribute declining arrests solely to the Speedy Trial Act. Second, while the Act makes it lear that § 3161(h) excludable delays apply to the arrest-indictment eriod, the general reluctance of courts to interpret those exclusions lexibly, as described above, may also influence arrest policies during he first time interval. In the same year from which Mr. Heymann draws his figures, time was recorded and excluded in only 571 of 14,301 cidents—less than 4 percent. Indeed, it may be that because of such luctance, prosecutors and defense counsel are not taking advantage f those exclusions during the first interval by requesting continuance here warranted.

A related question is whether United States Attorneys will forego prosecution of significant criminal cases by filing fewer indictments or informations in order to comply with the Act's final time limits. The Department contends that they will, pointing to a reduction in criminal filings of 13.4 percent in the year ended last June 30, as compared to the previous year. The Department's study, however, is less conclusive:

> The extent to which the Speedy Trial Act has contributed to the substantial decline in the number of federal prosecutions is difficult to determine. Although some planning groups have urged the local United States Attorney to be very selective in the criminal cases he brings in order to facilitate, through diminished volume, the expeditious handling of more serious offenses and more culpable offenders, the data analyzed by OIAJ do not suggest that declinations and compliance with the Act are closely related across all districts. While this does not negate the possibility that the Act has had some impact on declination policies, it does suggest that any such impact is not associated with higher levels of compliance with the time requirements of the Act.

The study found that districts with high declination rates achieve high levels of compliance with no greater frequency than those with lower declination rates; therefore, it concluded—

> changes in declination policies in response to the Act—that is, changes in the ratio of the volume of all criminal cases filed to all criminal matters received by United States Attorneys—may have little independent effect on district compliance levels and possible dismissal rates.

The fact that there has been a substantial shift in national priorities in Federal criminal prosecutions in the past several years may have a great, or greater, bearing on reduced criminal filings. Since late 1977, the Attorney General has attached highest priority to four types of Federal crimes—organized crime and racketeering, fraud, public corruption and narcotics and dangerous drugs. Guidelines have been drafted and disseminated to United States Attorneys and the resources and personnel of the Criminal Division have been redirected to concentrate on the investigation and prosecution of those crimes. United States Attorneys have been encouraged to convene Federal-State Enforcement Committees to set up mechanisms for referral of less important matters to State and local authorities for disposal. In further recognition of the Attorney General's priorities, the Federal Bureau of Investigation, the Drug Enforcement Administration and the Immigration and Naturalization Service are shifting emphasis away from the investigation of matters which may be handled at the State and local level in favor of more serious interstate crime.

Whether or not these factors are influencing prosecutorial declination policies and, if so, how, cannot be established conclusively. However, in meetings between the committee staff and a representative sample of U.S. Attorneys selected by the Department of Justice the line prosecutors suggested that the Speedy Trial Act was not a significant factor. By October 1 of this year, the Department is required to submit to this Committee a complete report on declinations in general. Presumably, the role the Act plays in influencing the policies of local United States Attorneys will be revealed more concretely then. Until that time, the Committee has no firm basis for reaching the conclusion that the Act is even marginally responsible for past reductions in criminal filings, particularly in view of the fact that the dismissal sanction has not yet taken effect.

The Justice Department also contends that the final arrest-indictment time limits will prejudice the ability of the Government to investigate the charges fully before the time runs. Careless or incomplete investigation can cause any one of three undesirable results: an otherwise innocent person could be indicted; a dangerous offender could be acquitted because of incomplete evidence, due to a hastily-returned indictment; or a dangerous suspect could be permitted to remain at liberty pending completion of a sufficient investigation.

In this case the Department's concern has been carefully documented and legislative relief is appropriate. The Department's study found the unavailability of investigative reports to be one of the three most significant causes of delay in the nine districts it surveyed, regardless of whether their compliance levels were low or high with the Act's time limits. The General Accounting Office found the same situation existed in the districts it studied, although it found in some cases that requests for priority processing had not been made. Although § 3161
(h)(8)(B)(iii) can arguably be extended to cover reasonable periods
of delay during which reports from investigative agencies and evi-
dentiary analyses from laboratories are completed and the Second
Circuit has so interpreted it, the Committee recognizes that this ques-
ion is a serious one.

Accordingly, the Committee's amendment clarifies that section's
ends of justice" continuance provisions to permit a court, in a case
vhere arrest precedes indictment, to grant a continuance if it finds
that it is unreasonable to expect return and filing of the indictment"
vithin the time limits, less other excludable delays.

INDICTMENT—ARRAIGNMENT

The genesis of the provision in the Act imposing a third time inter-
l, besides arrest and indictment and indictment and trial, was an
nendment suggested to the House Committee on the Judiciary by
e Department of Justice. The Department's representatives con-
ded at the time that, because a high percentage of criminal cases are
posed of by plea, it is an unwise and "extravagant use of judicial, de-
se, and prosecution resources to expend unnecessary scheduling and
nning efforts for a trial until the defendant indicates that he desires
rial." The Department also felt that the date of arraignment would
the most logical point along the arrest-trial span to fix a date for
l.

he Department has testified that, in recognition of several unfore-
problems, it now recommends enlarging the indictment-trial in-
al by ten days and eliminating the indictment-arraignment period.
t recommendation is also supported by the Judicial Conference
the American Bar Association.

Because the fixed indictment-arraignment period of ten days has indeed given rise to interpretive as well as practical problems, the Committee amendment eliminates it as a distinct period by merging the ten-day requirement with the time-to-trial period of sixty days. In the first place, although § 3161(c) was in fact amended to establish the third interval, corresponding changes to § 3161(h) (excludable delays) and § 3162 (sanctions) were not, and the legislative history is in conflict. Thus, the Second Circuit's guidelines conclude that there is no penalty intended if the defendant is not arraigned within ten days of indictment. The Administrative Office—which issues advisory guidelines to the districts—has apparently taken the opposite position.

Since, logically, the Congress would have defeated its own attempts to make the Act flexible by imposing the penalty of dismissal if the limit was not complied with without the benefit of exclusions where necessary, the Committee is constrained to agree with the commentator who attributed this inconsistency to "a last-minute drafting error." Furthermore, the practical consequences of observing the ten-day period without benefit of excludable delay would outweigh any measurable scheduling advantages. Marshals would be under pressure to locate and arrest defendants; the necessity to travel to meet the deadline in sparsely-populated districts would impose heavily on parties before the court; indigent defendants arrested and arraigned without counsel would either be denied the opportunity to obtain counsel, of choice, or pleas would be entered pro forma; and defense counsel, who are often not aware of the charges against their clients until the indictment is returned or their clients are actually in custody, would often be denied a reasonable opportunity to discuss the entry of a plea with them. Finally, a fixed indictment-arraignment requirement without sanction is largely meaningless, since no incentive would exist to schedule arraignment at the earliest practicable time.

ARRAIGNMENT—TRIAL

As noted in the discussion on *Excludable Delays*, *supra*, the Department of Justice, the Judicial Conference and the American Bar Association all endorse enlargement of the fixed arraignment to trial period of sixty days because they feel that, in addition to being arbitrary, sixty days is simply not enough time to schedule, prepare for and commence trials, particularly in complex cases or those involving multiple prosecutions. The Committee disagrees. The conclusion of the Committee in 1974 was correct. There is a rational basis for concluding that sixty days is a desirable benchmark for the time by which most criminal cases should proceed to trial. There is not sufficient evidence to support the contention that the Act should be altered to effect a fundamental change in policy at this time, particularly since the provisions permitting exclusion of time in specified instances have been interpreted narrowly and inconsistently, recorded haphazardly (where recorded at all) and little use has been made of continuances. Several other arguments have been advanced with respect to relaxing the time strictures during this period which should be considered.

One concern is disposed of quickly. The observation has been made that the rigidity of the time limit will force the courts to disregard the principle of "judicial efficiency." Defendants who are properly charged with the joint commission of an offense should ordinarily be tried together to save the time, expense and inconvenience of separate prosecutions. It has been reported that some trial judges have granted severances unnecessarily in multidefendant cases "so that a defendant whose case is moving slowly does not hold up the trial of his codefendants." In its own study the Department studied 180 multidefendant cases. It found no reflection of the occurrence of such incidents. Nor is there an indication of any such occurrences in the data compiled by the Administrative Office. If the Act has been interpreted to require such a result, the Committee calls to the Senate's attention §3161(h)(7), which provides specifically for exclusion of "a reason-able period of delay when the defendant is joined for trial with a codefendant as to whom time for trial has not run."

A second concern is more serious: adequate time for the considera-ion of plea bargains. None of the speedy trial objectives sought to be dvanced by the Act is served if an innocent defendant, faced with ittle time to prepare his defense and a Government prepared for trial, ccedes to a guilty plea to reduced charges rather than running the isk of a worse fate at trial. The same is true if a United States At-orney with a significant backlog of criminal cases decides to resort to lea-bargaining serious offenses. The most that current data shows is hat cases disposed of by plea have increased slightly in the three ears the Act has been in effect over the year previous to its enactment ut, again, the dismissal sanction has yet to take effect. Whether the xcludable delay provisions include time spent by the court in con-dering a plea bargain proposed to be entered into by the parties , once again, a matter of interpretation. In its recently-promulgated uidelines, the Second Circuit lists "a defendant's cooperation" as one the circumstances in which the "ends of justice" almost always tweight the speedy trial interests * * * (whether viewed as a cir-mstance 'likely to make a continuation of (the) proceeding impos-le' under (§ 3161)(h)(8)(B)(i) or a separate factor." The attend-t comment says:

> It is evident that a plea agreement or an agreement to terminate the prosecution of a cooperating defendant can often not be made until well after the statutory periods have run. Consequently, an (h)(8) continuance would be most appropriate.

f Federal prosecutorial policies are changing in emphasis to re-ve for trial more serious offenders, it is obviously not in the public erest to permit those who have engaged in less serious, but none-ess proscribed, criminal conduct to "take under advisement" a otiated plea agreement and then move for dismissal once the time rial has expired. To the same degree public confidence in equal ice would be eroded from the incarceration of an innocent person ed to plead guilty, due to an inability to prepare his or her nse on time. Either would surely constitute a "miscarriage of jus-" and, as the Second Circuit makes plain, no such result was in-ed. As a general matter the committee is reluctant to automati- excluse plea bargaining *per se* because the difficulty of measuring beginning on a bonafide bargaining but prefers the case-by-case oach of second circuit under existing language. However, the

Committee amendment would exclude automatically from the sixty-day period delay resulting from consideration by the court of a proposed plea agreement entered into by the defendant and the Government.

The most serious concern about the arraignment to trial period raised by proponents of change involves the ability of the defendant to obtain and maintain counsel of his choice and prepare effectively for trial. Not surprisingly, given palpable judicial unwillingness to interpret the Act's exclusions flexibly to date, the absence of a dismissal sanction to serve as an incentive and a Government which may be prepared to try its case when the indictment is returned, many defense lawyers have characterized the Act as the "Speedy Conviction Act." Theoretically, the defense has a maximum of one hundred days to prepare for trial, less appropriate excludable delays; however, since fewer than four in ten cases commence with arrest, most defendants would have seventy net days to prepare. Moreover, preparation time may be further limited to sixty net days, or less. The ten-day indictment to arraignment period is often eliminated by holding arraignment on the day of indictment or, when arrest follows indictment, on the date of the first appearance. At that point, the clock starts to run. If a defendant is not represented by counsel at that point, part of the preparation time must be consumed searching for representation. Given the fact that a United States Attorney can control the switch on the clock to the extent that the seventy-day maximum is begun upon indictment, the burden of preparation does not always fall as heavily on the Government.

If courts, feeling compelled to schedule trials immediately, are loathe to grant "ends of justice" continuances to permit adequate preparation time—and the Committee finds considerable evidence that many are—and construe automatically-excludable delays with too much inflexibility, the defendant and his counsel may shoulder an unintended and unwarranted share of the speedy trial burden. As the comment from the House Judiciary Committee's 1974 report makes clear, the expedients of speed and efficiency were not to supersede the elements of due process; "* * * (a) scheduled trial date should never become such an overarching end that it results in the erosion of the defendant's right to a fair trial."

The Committee believes that the defendant's ability to retain counsel of his choice and within his means, to enjoy continuity of counsel where possible and to have diligent counsel prepared to put on his or her defense are essential and must be encouraged where to do so would not frustrate the public's interest in speedy trials and would serve the ends of justice. While it believes that the Act as written is flexible enough to permit the realization of these objectives, its legislative history placed undue emphasis on case complexity and failed to foretell the types of occurrences for which defendants should not be penalized, such as good-faith scheduling conflicts and illness. For these reasons, the Committee amendment clarifies reasonable delay for pretrial motions preparation which may automatically be excluded and sharpens the variety of factors courts may consider in deciding whether to grant "ends of justice" continuances, including the uniqueness or complexity of the case, obtaining and maintaining continuity of counsel and reasonable preparation time.

CIVIL BACKLOGS

Widespread criticism has been directed at the Act as the catalyst for
courts, anxious to comply with its time limits and thereby avoid the
prospect of future dismissals, to abandon their civil dockets in favor
of the speedy disposition of criminal cases.

Over the last decade, the increase in the number of civil cases filed
annually has been enormous. By June 30, 1978, nearly 139,000 cases had
een filed since the preceding July, almost double the number of an-
ual civil filings for the same period in 1967–68. The Department of
Justice contends that the increase in the size of the civil case backlog
s attributable at least in part to the enactment of the Act, since the
ercentage of cases pending since 1975 has increased by 35 percent,
hile the number of filings has increased by only 18 percent. In the
istricts it sampled, the Department found a correlation between civil
se terminations and compliance with the Act; in "low" compliance
istricts, the increases in civil case termination rates were approxi-
ately 1.5 times greater than those in "medium" and "high" compli-
ce districts.

The Fordham Law Review project, on the other hand, reaches the
pposite conclusion. After surveying civil pending rates, criminal
cket activity and judicial reaction in detail in three metropolitan
stricts, their study says:

> Experience in the three districts surveyed, however, reveals that the Act may not be as culpable on these counts as its detractors have charged. While the majority of judges interviewed agreed that the number of civil cases on their dockets was increasing yearly, a substantial number declared that the Act was not a factor in the status of their dockets. Moreover, that the rise in the civil pending rate is not entirely, if at all, the fault of the Act is supported by an analysis of the caseloads in the three districts.

he evidence is clearly in conflict. The Department admits that
]ne can only speculate what effect the Speedy Trial Act has had
n the civil calendar * * * [p]recise data are lacking". The Depart-
t's study admits that "* * * other factors may have affected the
rved shift in civil filings, terminations, and pending cases", such
ndividual case complexity. Despite the Act's admonition to the
nning groups to "avoid underenforcement [and] overenforce-
t * * * of the law [and] prejudice to the prompt disposition of
l litigation * * *" in planning the implementation of the act, many
ricts reported to the Judicial Conference's Ad Hoc Subcommittee
Speedy Trial that they were "virtually ignoring their civil
ndars."

hus, the Committee cannot say that the Act is not having an ad-
e impact on civil litigants, nor can it say at present that the Act
erely a convenient excuse for insisting that its prescriptions be
ed. What can be said is that much more needs to be learned, and
, about just what effect the Act is having on civil case filings,
inations and backlogs on a district-by-district basis and what more
e done to alleviate the seriousness of the problem, if indeed it

does trace back to the Act. The Committee has included, therefore, in its amendment provisions to extend the planning, data collection and reporting requirements of the Act with greater emphasis on participation by civil litigants.

RESOURCES

Practically no one, in calling for extension of the Act's time limits because of what is characterized as impending disaster, has bothered to speculate on what effect the addition of significant judicial and prosecutorial resources will have on the disposition of criminal cases. In making required requests of the Congress for additional resources to aid the implementation of the Act, the district planning groups last year requested 120 permanent and 2 temporary new district judgeships. Last year, the Congress enacted the Omnibus Judgeship Act of 1978, which created 117 new district judgeships (114 permanent, 3 temporary) and 35 circuit court judgeships. Last month, the Committee authorized an increase of 630 positions and some $22 million in the fiscal year 1980 budget of the Department of Justice for United States Attorneys, Marshals and bankruptcy trustees to offset the increase in the Federal judiciary by nearly one-third. Moreover, the Committee has under active consideration legislation which would abolish diversity of citizenship as a jurisdictional basis for bringing suit in Federal court which, if enacted, would eliminate the filing of 31,625 new civil filings annually; legislation which would amend the Magistrates' Act to extend the authority of United States Magistrates to hear and dispose of matters now required to be heard by a judge; legislation which would require arbitration, rather than full-dress trial, of certain types of civil disputes; legislation which would provide a statutory framework for diverting from the criminal process certain types of nonviolent offenders; and legislation which would codify and streamline procedures governing class-action and shareholder-derivative suits.

Obviously, the sharp increase in the size of the Federal judiciary and in United States Attorney and Marshal positions will have a highly significant impact on existing criminal and civil backlogs; it is just as obvious, however, that that impact will not be apparent immediately. It would do a disservice to what the Act has already accomplished to make vital decisions about the future of its objectives without first learning what the addition of more resources will mean, as far as the ability of the Federal criminal system to conduct its business is concerned. Similarly, allowing the Act to become effective before those resources are stable enough to measure their effectiveness would, the Committee fears, tend to make criticisms of the Act which have been found wanting, in some respect or another, self-fulfilling prophecies. This factor has contributed heavily to the Committee's decision to postpone the effective date of the dismissal sanction.

WAIVER

In conjunction with its recommendation to enlarge the time limits of the Act while giving the defense not less than thirty days to prepare for trial, the Judicial Conference has recommended in the past that the Act be amended further to permit the defendant to waive the thirty-day minimum. While the Committee has received no formal legislative recommendation to permit waiver by the defendant of any part of the Act, it has found that some judges feel that the Act may be waived by a defendant currently.

The sole reference to waiver in the Act appears in § 3162(a)(2), which states:

> * * * Failure of the defendant to move for dismissal prior to trial or entry of a plea of guilty or nolo contendere shall constitute a waiver of the right to dismissal under this section.

The Committee wishes to state, in the strongest possible terms, that any construction which holds that any of the provisions of the Speedy Trial Act is waivable by the defendant, other than his statutorily-conferred right to move for dismissal as cited above, is contrary to legislative intent and subversive of its primary objective: protection of the societal interest in speedy disposition of criminal cases by preventing undue delay in bringing such cases to trial.

Several arguments based on constitutional grounds have been adanced to justify the use of waiver:

(1) Waiver of the speedy trial guarantees established by the Act is properly inferred from the defendant's ability to waive the Sixth Amendment right to speedy trial. As has already been stated, the Act seeks to protect and promote speedy trial interests that go beyond the rights of the defendant; although the Sixth Amendment recognizes a societal interest in prompt dispositions, it primarily safeguards the defendant's speedy trial right—which may or may not be in accord with society's. Because of the Act's emphasis on that societal right, a defendant ought not be permitted to waive rights that are not his or hers alone to relinquish.

(2) A construction of waiver is necessary to preserve the constitutionality of the Act. Specifically, it is asserted that the excludable time provisions do not allow delay in many circumstances where denial of a continuance would deprive the defendant of his or her rights to assistance and choice of council, as well as due process of law. If the defendant cannot in those instances free himself from the statutory constraints through the expedient of waiver, the argument proceeds, the Act is to that extent unconstitutional. The Committee contends that any conclusions that the Act does not provide sufficient latitude to permit delay in situations where a defendant's recognized Sixth Amendment right is jeopardized thereby—effective assistance of counsel, including the right to prepare an adequate defense and reasonable preparation time; choice of counsel; and fundamental due process is based on reading the Act much too narrowly. The Second Circuit guidelines in construing both the automatically-excludable delay and the "ends of justice" continuance provisions, make ample room for accommodation of circumstances where strict enforcement of the Act's time limits might prejudice acknowleged Sixth Amendment speedy trial rights which accrue to the deendant. Nonetheless, the Committee amendment further clarises applicable provisions in both the delay-exclusion and coninuance provisions to remove any doubt.

In summary, the Committee concludes that significant experience under the Act's final time limits, with no imposed sanction for non-compliance—save those specified in § 3164, as amended will put the Congress in a much better position to decide whether changes in the Act's keystone provisions are warranted. This deferral period will allow sufficient time for continued planning and reporting, better data collection and analysis and determination of what impact the addition of significant new resources will have on the administration of criminal justice and implementation of the Act. The study done by the Department of Justice is in accord:

> A proposal which appears to make sense at this point is to delay for a period of time the sanction of mandatory dismissal for non-compliance in order that some experience may be had with the operation of the ultimate time limits before the sanction becomes effective. This proposal would seem to be in keeping with the legislative history of the Speedy Trial Act, while avoiding "tinkering" based more on informed speculation than on reliable information.
>
> * * * * *
>
> The benefits of the Act's unique, graduated approach will be substantially dissipated, it now appears, if the ultimate limits of the dismissal sanction come into effect simultaneously. Certainly the Federal system would be deprived of an opportunity to gain substantial nationwide experience under the ultimate limits without the sanction. Individual districts would also be deprived of the chance to operate under the one-hundred day limit free of a threat that may divert the participants; performances from a professionally acceptable level. Modification of the Act to allow sufficient time to analyze the system's performance under the 1979 time limits will enable Congress thereafter to determine with greater accuracy what adjustments, if any, may be needed in the Act or in the allotted resources of the various elements of the system.

IV. Explanation of Committee Amendments

SUMMARY

Both S. 961, the Department of Justice's bill, and S. 1028, the Judicial Conference's bill, would expand the Act's existing time limits from 100 days (arrest to trial) to 180 days in all cases, subject to automatic and discretionary exclusions. As discussed above, it is the view of the Committee that, taken as a whole, the testimony taken and exhibits received during the May 2 and May 10 hearings on these bills neither make the case for nor support such a fundamental policy change in the Act at this time. Rather, they tend to lead to the conclusion that more experience and data are needed to determine whether such changes are, in fact, necessary.

In the main, the Committee amendment would defer the effective date of the dismissal sanction an additional two years, until July 1, 1981, meaning that no criminal case could be dismissed for failure to indict or try the defendant within the Act's final time limits until that date.

In addition, it would permit districts that are prepared to implement the section 3162 sanctions fully to do so prior to the new effective date by establishing an application-approval procedure for that purpose. The latter provision, coupled with continued and expanded reporting requirements, would provide the necessary data and case experience to permit an informed judgment as to whether the basic principals embodied in the Act are sound and worthy of permanence.

Other major areas of importance to all parties upon which agreement has been reached and which are included in the consensus substitute are as follows:

(1) merging the present 10-day indictment-to-arraignment and 60-day arraignment-to-trial intervals into a single, 70-day period [§ 3161(c)(1)];

(2) guaranteeing the defendant a reasonable period in which to obtain counsel and prepare for trial—30 days from the date the defendant appears through counsel or elects to proceed *pro se*, unless the defendant waives the right conferred [§ 3161(c)(2)];

(3) assuring necessary flexibility where a defendant is to be retried following the dismissal of an indictment, which is reinstated following appeal, or where he is to be retried following other appeals, declaration of mistrial or order for new trial [§ 3161 (d), (e)];

(4) defining more precisely periods of delay resulting from "proceedings concerning the defendant" which are automatically excludable from the Act's time limits, relating especially to examinations, motions practice, interdistrict transfers and transportation [§ 3161(h)(1)];

(5) clarifying the grounds for "ends of justice" continuances to permit reasonable delay where, due to the nature of the case or attendant circumstances, it is unreasonable to expect an indictment to be returned or either party to be fully prepared for pretrial proceedings or trial within the time limits and, in routine cases, to protect the defendant's ability to obtain counsel of choice and to protect the ability of both parties to prepare fully from unforeseen circumstances [§ 3161(h)(8)(B)(i)–(iv)];

(6) making the interim limits for the trial of detained or high-risk defendants permanent [§ 3164];

(7) requiring the planning groups in each district to submit at least one final implementation plan prior to the effective date of the dismissal sanction and to report on the impact of the Act's implementation on the civil case backlog [§§ 3165(e)(2)–(3), § 3166(b), (c)] and, in addition, to require the appointment of a private attorney skilled in civil litigation to each planning group [§ 3168(a)];

(8) permitting circuit councils to promulgate guidelines which promote uniform interpretation of the Act within the circuit § 3166(f)];

(9) requiring the Administration Office of the U.S. Courts and he Justice Department to file pre-sanction reports (September 30 nd December 31, 1980, respectively) which set forth the data and ase experience found wanting in the hearings and recommendaions for change [§ 3167(b),(c)];

(10) making the speedy trial data collection section permanent [§ 3170]; and

(11) giving the chief judge of a district the power to suspend the final time limits up to thirty days, under emergency conditions [§ 3174(e)].

SECTION-BY-SECTION ANALYSIS

Section 2 amends § 3161(c) to merge the second interval indictment to arraignment) into the third interval (arraignment to trial). Thus, instead of 30–10–60 day intervals, the Act would operate on a 30–70 day (arrest to indictment, indictment to trial) basis.

Both S. 961, as introduced, and S. 1028 would make this change. In addition, a new paragraph (2) prohibits any trial from occurring within 30 days "from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed *pro se*", unless the defendant consents in writing to an earlier trial. This provision assures the defendant some minimal time to prepare. It is similar to a comparable provision in the Justice Department and Judicial Conference bills; however, those bills provide that the 30-day minimum is to be measured from the date of indictment or bail hearing.

Prohibiting trial less than 30 days after the date the defendant appears in a position to begin preparing his defense more fully protects basic due process rights. It is the Committee's intent that the exclusions provided in section 3161(h) apply to the 30-day minimum to-trial provision. Therefore, if an event occurs which would automatically exclude time under subsection (h), such as a pretrial mental examination, that time is not only excluded from computing the time within which trial must occur prior to imposition of the dismissal sanctions, but time would also automatically be excluded in computing the 30-day minimum period of time, during which the judge could not schedule trial without the defendent's consent.

Having said that, the Committee wishes to stress that this minimum-preparation time guarantee is not to be construed to permit the defendant to delay unduly the trial date, especially where permissible excludable delay is found. If, for example, counsel for the defedant moves for an "end of justice" continuance under section 3161(h)(8) to allow him or her additional time to prepare for trial, the court should scrutinize closely his or her good-faith efforts to prepare inside the time fixed for trial, taking into account other excludable delays. Again, the court should take great care to balance the defendant's and society's speedy trial rights against the "ends of justice" to be served by granting such a motion.

Section 3 amends § 3161(d) to reflect the Justice Department's proposal concerning the trial upon indictments dismissed by the trial court and subsequently reinstated on appeal. The only difference is that the time limits for such trial in the substitute is seventy days in order to make that limit consistent with the amendment to section 3161(c) contained in section 1. However, the Committee amendment, like the Department's bill, permits the Court to extend the trial date up to 180 days, if passage of time or other factors make the shorter limits "impractical."

This amendment clarifies existing law and assures that, in the case of an indictment which is dismissed by the trial court but reinstated upon appeal, the time limits are the same as those under the Act when the defendant successfully secures a new trial on appeal. The amendment also specifies that the periods of excludable delay and the dismissal sanction are applicable, and make similar conforming amendments to § 3161(e).

Section 4 expands and clarifies the specifically-enumerated periods of excludable time. It combines the best aspects of the Department's and the Conference's proposals. The Committee amendment leaves intact, however, both the order and the automatic application of exclusions as provided in existing law. The Conference bill would have made the application of excludable time discretionary, instead of automatic.

Section 3161(h)(i) currently provides that periods of delay consumed by the following are to be automatically excluded:

An examination or hearing to determine mental competency of physical incapacity;

An examination under the Narcotic's Addicts Rehabilitation Act of 1966, as amended (28 U.S.C. 2902);

Trials of other charges against the defendant;

Interlocutory appeals;

Hearings on pretrial motions;

Transfer proceedings; and

Periods when any of the above proceedings are under advisement by the court.

The Committee amendment adds to this list three Judicial Conference suggestions concerning delays resulting from:

Deferral of prosecution under 28 U.S.C. 2902;

Transportation of the defendant from other districts and for examination or hospitalization with a rebuttable presumption that any period so consumed in excess of 10 days is unreasonable; and

Consideration of proposed plea agreements.

These amendments would clarify the language contained in existing law, pursuant to several suggestions made by the Department and the Conference,

The mental examination provision would allow the exclusion of more than one examination or any proceeding (instead of one hearing); the same type of change is made for examination under Section 2902, Title 28.

The "hearings on pretrial motions" provision would be enlarged to, include, as excludable time, the entire period of time from the date of filing to the conclusion of hearings on, or other prompt disposition of, pretrial motions.

The "proceedings related to transfer" provision is expanded to include the removal of the defendant from another district.

The Committee's recommended changes in the computation of excludable delays and pretrial motions practice bear some explanation. First, the language in subparagraph (F) of subsection (h)(1), the automatically excludable delay provisions, must be read together with the proposed change in clause (ii) of subsection (h)(8)(B) involving preparation" for "pretrial proceedings". Although some witnesses contended that all time consumed by motions practice, from preparation through their disposition, should be excluded, the Committee finds that approach unreasonable. This is primarily because, in routine cases, preparation time should not be excluded where the questions of law are not novel and the issues of fact simple. However, the Committee would permit through its amendments to subsection (h)(8)(B) reasonable preparation time for pretrial motions in cases presenting novel questions of law or complex facts. We suggest caution by courts in granting "ends of justice" continuances pursuant to this section, primarily because it will be quite difficult to determine a point at which preparation actually begins.

This provision and the change the committee amendment makes with respect to the automatic exclusions for pretrial motions in (h)(1)(F) is an appropriate subject for circuit guidelines, pursuant to the Committee's addition of a new subsection (f) to section 3166. Not only should such guidelines instruct courts on how to compute the starting date of preparation for complex pretrial motions, but such guidelines should also set uniform standards for motion practice. Many courts by local rule have either adopted an omnibus pretrial motions procedure, which requires consolidation of all such motions soon after arraignment, or they require the filing of pretrial motions within a specified number of days (often 10) after arraignment, although they need not be consolidated. The Committee expresses no preference but recognizes that, if basic standards for prompt consideration of pretrial motions are not developed, this provision could become a loophole which could undermine the whole Act.

Finally, the section provides exclusion of time from filing to the conclusion of hearings on or "other prompt disposition" of any motion. This later language is intended to provide a point at which time will cease to be excluded, where motions are decided on the papers filed without hearing. In using the words "prompt disposition", the committee intends to make it clear that, in excluding time between filing and disposition on the papers, the Committee does not intend to permit circumvention of the 30-days, "under advisement" provision contained in Subsection (h)(1)(J). Indeed, if motions are so simple or routine that they do not require a hearing, necessary advisement time should be considerably less than 30 days. Nor does the Committee intend that additional time be made eligible for exclusion by postponing the hearing date or other disposition of the motions beyond what is reasonably necessary.

Section 5 of the Committee amendment clarifies the list of factors that the court should consider when granting an "ends of justice" continuance under section 3161(h)(8).

Subsection (a) amends clause (ii) of existing section 3161(h)(8)(B) to address, in part, the preparation time problem regard pretrial motions, discussed above. In addition, it makes it clear that, in unusual or complex cases, the court, by utilizing the "ends of justice" balancing test, can grant a continuance to either party where circumstances warrant it, such as extensive discovery based on complex transactions.

Subsection (b) deals with a very specific problem presented to the Committee by the Department of Justice. When the Congress considered the Act in 1974, it specifically created flexibility in subsection 3161(b) for small and rural districts, where grand juries are not in continuous session, by providing an additional 30 days when arrest occurs when the grand jury is not in session, during the 30 day period. The amendment made here is designed to clarify the authority of the court, pursuant to the general "ends of justice" balancing test, to grant a continuance in a circumstance such as might occur in a rural jurisdiction where a regularly-convened grand jury is to expire shortly after an arrest is made. This provision assumes that the Department feels constrained to arrest the defendant, e.g., for fear of flight, yet cannot be prepared to present the case to the grand jury within the time before it is due to expire.

The amendment in subsection (c) meets the defense bar's major concern that, in some circumstances, there will be inadequate time to prepare within 70 days from indictment, as well as the Government's concern that, in some cases, the 30 day period from arrest to indictment is too short for adequate investigation. There are three significant parts to this provision:

First, defendants are specifically afforded a reasonable time to obtain counsel. A continuance would be available explicitly to toll the time limit for a reasonable period during which the defendant seeks to obtain legal representation of his choice. Under existing law, the defendant may be faced with an impending trial date without counsel and, instead of being able to spend his time working on the defense, he must spend his time trying to find representation. This amendment would, if the court finds that the "ends of justice" require it, "stop the clock," for a reasonable time, until the defendant obtains counsel.

Second, this amendment would provide a basis for a continuance, for either the Government or the defendant, when failure to do so would unreasonably deny continuity of counsel. This meets the concern over scheduling conflicts caused by defense counsel's and the United States Attorneys' good faith, already scheduled commitments or other unavoidable problems such as emergency, illness, long-planned vacation or other circumstances which would otherwise require a disuptive change of counsel, in order to meet the time limits.

Third, and most important, the Committee amendment provides the ourt a basis for a continuance when, after due diligence on the part f counsel for either party, there is simply not enough time to effecively prepare for trial of a case which is neither unusual nor complex, ithin the meaning of new clause (ii), *supra*. The Committee intends hat the Government would bear a heavy burden under this provision, n cases started by indictment, when it has been preparing a case for substantial period of time prior to seeking and obtaining return of he indictment. In cases initiated by arrest, however, granting a moon for continuance under this provision should be easier.

Section 6 would amend § 3163(c) to defer the imposition of the disissal sanction until July 1, 1981, and the Committee intends that the nction applies only to all cases commenced by arrest or summons and l informations or indictments filed thereafter.

Section 7 amends § 3164, which establishes time limits for the trial those persons designated to be of high risk by the Government or ose in detention awaiting trial. The Committee amendment matches e Justice Department's proposals to make the interim limits permant with respect to those two clauses of defendants. Thus, high risk or detained persons will have to be tried within 90 days, as the Department has represented it is prepared to continue doing, or suffer the consequences, as currently provided.

The amendment provides specifically that excludable periods of delay apply to these cases, thereby resolving a conflict in the circuits on that issue.

Sections 8 and 9 amend sections 3165 through 3170 to extend the planning and reporting procedures of the district planning groups now in effect for two additional years. This will provide the Congress the additional information it needs from then on the effect of the Act, as amended, under the final time limits. Furthermore, under subsection (e) the Administrative Office of the United States Courts and the Justice Department will be required to report to Congress on their respective efforts to improve implementation of the Act in low-compliance districts. The amendment also requires them to explain why any cases which might exceed the time limits could not be handled through the flexibility provided under the Act.

Subsection (c) amends § 3166, adding a new subsection (f) which would assist in the implementation of the Act by permitting the judicial councils of the circuits to promulgate guidelines to be used by all the courts in that circuit for interpretation and application of the provisions of the Act. Such guidelines, similar to those already issued by the United States Court of Appeals for the Second Circuit would eliminate ambiguity and uncertainty which have prevailed due to inconsistent and inflexible interpretation of the Act.

In fact, the Committee strongly recommends a decided effort on the part of the Administrative Office to lend its technical support to enable the kind of interchange among the circuit councils which would discourage conflicting guidelines.

Section 10 amends § 3174, the judicial emergency provision, to accomplish several important objectives:

First, the provision is amended to make the application-for-suspension process less cumbersome, by eliminating the requirement that the application be processed all the way up through the Judicial Conference before emergency suspensions take effect. As both the Department of Justice and Judicial Conference pointed out, the Judicial Conference meets only twice annually, and—although the application approval function could be delegated in some fashion—the Committee believes that the judicial councils of each circuit are more capable and desirable for performing such a function. Judicial councils are closer to the problems of individual districts, and permitting each council to perform the suspension approval function will increase the overall flexibility of the provision. The Committee cautions circuit councils to take this role seriously and approach it with a great deal of circumspection.

Second, the section is amended to permit the chief judge of any district, with the approval of the planning group, to apply to the circuit council to implement the provisions of § 3162 at any time prior to the date the sanctions become effective, if there is concurrence that the district is ready to implement them fully. This is a vital corollary to the deferral scheme, since, as both the Department of Justice's OIAJ study and the General Accounting Office pointed out, straight deferral—without more—will deprive the Congress and the system of experience more nearly approximating post-sanction conditions. The Committee encourages those districts, particularly the seventeen that are now operating under the Act's final time limits, who feel capable of implementing the dismissal sanctions to do so, as it will provide the Congress with a much better indication of how the Act is likely to affect the system and whether major changes should be made. Should any districts choose to implement § 3162 during the deferral interval, the Committee expects both the Administrative Office and the Department of Justice to pay close attention to their experiences and problems.

Third, the amendment preserves the reporting requirements and the involvement of the Congress in the suspension process and assures that the initial interval remains in effect.

Finally, acceding to the request of both the Department and the Conference, the bill as amended amends the suspension provisions to permit the chief judge of any district to suspend the operation of the time limits in his district for up to thirty days, provided he finds the need to do so is of "great urgency" and files an application for suspension under the formal, statutory process within 10 days. The Committee believes that situations may arise where the exercise of such authority is necessary and, further, that chief judges are in the best position to judge when an emergency is of such magnitude that immediate suspension is the only way to forestall disaster. The Committee asks and expects that chief judges will exercise this authority in good faith and sparingly.

Sections 11 and 12 make technical and conforming amendments to the Act.

V. Cost of this Legislation

COMMITTEE ESTIMATE

In compliance with section 190j(a) of title 2, United States Code, the Committee states that the enactment of S. 961, as amended, will result in no additional cost to the Government.

In enacting the Act in 1974, the Congress approved an authorization of $2,500,000 for fiscal year 1975, to remain available until expended. t is the Committee's information, from the Congressional Budget Office and the Administrative Office of the United States Courts, that ome $857,000 remains of that initially appropriated sum which, in he Committee's judgment, will be ample to support the extended planing and reporting requirements.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate of the Congressional Budget Office is set forth low:

June 13, 1979.

on. Edward M. Kennedy,
hairman, Committee on the Judiciary, U.S. Senate,
ashington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional dget Act of 1974, the Congressional Budget Office has reviewed 961, the Speedy Trial Act Amendments Act of 1979, as ordered ported by the Senate Committee on the Judiciary, June 13, 1979.

This bill extends the time limitations set for various trial procedures and allows the chief judge of a district court to suspend certain of these limitations under certain circumstances. It is expected that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

James Blum,
(For Alice M. Rivlin, Director).

Regulatory Impact of the Bill

In compliance with clause 5 of rule XXIX of the Standing Rules of the Senate, the Committee states that, because the bill as amended extends the operation of certain planning and reporting requirements in the Speedy Trial Act of 1974 to better enable the Congress, the Department of Justice, United States Attorneys and the Federal Judiciary to evaluate the eventual impact of the Act on the operation and administration of the Federal criminal justice system, and because the bill as amended defers final implementation of the Act's full implementation schedule, enactment of the bill as amended would have no regulatory or economic impact upon individuals or businesses, nor would it affect the personal privacy of affected individuals or result in additional paperwork by affected parties.

Committee Consideration

On June 13, 1979, a quorum being present, the Committee on the Judiciary agreed to an amendment in the nature of a substitute to S. 961 and ordered the bill reported favorably, as amended, by unanimous voice vote.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE—CRIMES AND CRIMINAL PROCEDURE

* * * * * * *

CHAPTER 208—SPEEDY TRIAL

Sec.
3161. Time limits and exclusions.
3162. Sanctions.
3163. Effective dates.
[3164. Interim limits.] *3164. Persons detained or designated as being of high risk.*
3165. District plans—generally.
3166. District Plans—contents.
3167. Reports to Congress.
3168. Planning process.
3169. Federal Judicial Center.
3170. Speedy trial data.
3171. Planning appropriations.

3172. Definitions.
3173. Sixth amendment rights.
[3174. Judicial emergency.] ***3174. Judicial emergency and implementation.***

* * * * * * *

[(c) The arraignment of a defendant charged in an information or indictment with the commission of an offense shall be held within ten days from the filing date (and making public) of the information or indictment, or from the date a defendant has been ordered held to answer and has appeared before a judicial officer of the court in which such charge is pending whichever date last occurs. Thereafter, where a plea of not guilty is entered, the trial of the defendant shall commence within sixty days from arraignment on the information or indictment at such place, within the district, as fixed by the appropriate judicial officer.]

(c)(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending whichever date last occurs. If a defendant consents in writing to be tried before a magistrate on a complaint, the trial shall commence within seventy days from the date of such consent.

(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.

(d)(*1*) If any indictment or information is dismissed upon motion of the defendant, or any charge contained in a complaint filed against an individual is dismissed or otherwise dropped, and thereafter a complaint is filed against such defendant or individual charging him with the same offense or an offense based on the same conduct or arising from the same criminal episode, or an information or indictment is filed charging such defendant with the same offense or an offense based on the same conduct or arising from the same criminal episode, the provisions of subsections (b) and (c) of this section shall be applicable with respect to such subsequent complaint, indictment or information, as the case may be.

(2) If the defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial shall commence within seventy days from the date the action occasioning the trial becomes final, except that the court retrying the case may extend the period for trial not to exceed one hundred and eighty days from the date the action occasioning the trial becomes final if the unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.

* * * * * * *

(e) If the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for new trial, the trial shall commence within [sixty] *seventy* days from the date the action occasioning the retrial becomes final. If the defendant is to be tried again following an appeal or a collateral attack, the trial shall commence within **[**sixty**]** *seventy* days from the date the action occasioning the retrial becomes final, except that the court retrying the case may extend the period for retrial not to exceed one hundred and eighty days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from passage of time shall make trial within sixty days impractical. *The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.*

* * * * * * *

(h) The following periods of delay shall be excluded in computing the time within which an information or an indictment must be filed, or incomputing the time within which the trial of any such offense must commence:

[(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

(A) delay resulting from an examination of the defendant, and hearing on, his mental competency, or physical incapacity;

(B) delay resulting from an examination of the defendant pursuant to section 2902 of title 28, United States Code;

(C) delay resulting from trials with respect to other charges against the defendant;

(D) delay resulting from interlocutory appeals;

(E) delay resulting from hearings on pretrial motions;

(F) delay resulting from proceedings relating to transfer from other districts under the Federal Rules of Criminal Procedure; and

(G) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement.**]**

(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

(D) delay resulting from trial with respect to other charges against the defendant;

(E) delay resulting from any interlocutory appeal;

(F) delay resulting from any pretrial motion, from the filing of the motion, through the conclusion of the hearing on, or other prompt disposition of, such motion;

(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.

* * * * * * *

(8)(A) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless he court sets forth, in the record of the case, either orally or in writ-ng, its reasons for finding that the ends of justice served by the grant-ng of such continuance outweigh the best interests of the public and he defendant in a speedy trial.

(B) The factors, among others, which a judge shall consider in de-rmining whether to grant a continuance under subparagraph (A) of is paragraph in any case are as follows:

(i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

[(ii) Whether the case taken as a whole is so unusual and so complex, due to the number of defendants or the nature of the prosecution or otherwise, that it is unreasonable to expect adequate preparation within the periods of time established by this section.]

(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this sectioin.

[(iii) Whether delay after the grand jury proceedings have commenced, in a case where arrest precedes indictment, is caused by the unusual complexity of the factual determination to be made by the grand jury or by events beyond the control of the court or he Government.]

(iii) Whether, in a case in which arrest precedes indictment, lelay in the filing of the indictment is caused because the arrest ccurs at a time such that it is unreasonable to expect return and ling of the indictment within the period specified in section 161(b), or because the facts upon which the grand jury must base s determination are unusual or complex.

(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

* * * * * * *

§ 3163. Effective dates

* * * * * * *

[(c) Section 3162 of this chapter shall become effective after the date of expiration of the fourth twelve-calendar-month period following July 1, 1975.**]**

(c) Subject to the provisions of section 3174(c), section 3162 of this chapter shall become effective and apply to all cases commenced by arrest or summons, and all informations or indictments filed, on or after July 1, 1981.

[§ 3164. Interim limits] *§ 3164. Persons detained or designated as being of high risk.*

[(a) During an interim period commencing ninety days following July 1, 1975 and ending on the date immediately preceding the date on which the time limits provided for under section 3161(b) and section 3161(c) of this chapter become effective, each district shall place into operation an interim plan to assure priority in the trial or other disposition of cases involving—

[(1) detained persons who are being held in detention solely because they are awaiting trial, and

[(2) released persons who are awaiting trial and have been designated by the attorney for the Government as being of high risk.**]**

(a) The trial or other disposition of cases involving—

(1) a detained person who is being held in detention solely because he is awaiting trial, and

(2) a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk, shall be accorded priority.

[(b) During the period such plan is in effect, the trial of any person who falls within subsection (a)(1) or (a)(2) of this section shall commence no later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The trial of any person so detained or designated as being of high risk on or before the first day of the interim period shall commence no later than ninety days following the first day of the interim period.**]**

(b) The trial of any person described in subsection (a)(1) or (a)(2) of this section shall commence not later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section.

* * * * * * *

§3165. District plans—Generally

* * * * * * *

(e)(1) Prior to the expiration of the twelve-calendar-month period following July 1, 1975, each United States district court shall prepare and submit a plan in accordance with subsections (a) through (d) above to govern the trial or other disposition of offenses within the jurisdiction of such court during the second and third twelve-calendar-month periods following the effective date of subsection 3161(b) and subsection 3161(c).

(2) Prior to the expiration of the thirty-six calendar month period following July 1, 1975, each United States district court shall prepare and submit a plan in accordance with subsections (a) through (d) above to govern the trial or other disposition of offenses within the jurisdiction of such court during the fourth and [subsequent] *fifth* twelve-calendar month periods following the effective date of subsection 3161(b) and subsection 3161(c).

(3) Prior to the expiration of the sixty-calendar-month period following July 1, 1975, each United States district court shall prepare and submit a plan in accordance with subsections (a) through (d) to govern the trial or other disposition of offenses within the jurisdiction of such court during the sixth and subsequent twelve-calendar-month periods following the effective date of subsection 3161(b) and subsection 3161(c) in effect prior to the date of enactment of this paragraph.

§3166. District plans—contents

(a) Each plan shall include a description of the time limits, procedural techniques, innovations, systems and other methods, including the development of reliable methods for gathering and monitoring information and statistics, by which the district court, the United States attorney, the Federal public defender, if any, and private attorneys experienced in the defense of criminal cases, have expedited or intend to expedite the trial or other disposition of criminal cases, consistent with the time limits and other objectives of this chapter.

(b) Each plan shall include information concerning the implementation of the time limits and other objectives of this chapter, including:

(1) the incidence of and reasons for, requests or allowances of extensions of time beyond statutory or district standards;

(2) the incidence of, and reasons for, periods of delay under section 3161(h) of this title;

(3) the incidence of, and reasons for, the invocation of sanctions for noncompliance with time standards, or the failure to invoke such sanctions, and the nature of the sanction, if any invoked for noncompliance;

(4) the new timetable set, or requested to be set, for an extension;

(5) the effect on criminal justice administration of the prevailing time limits and sanctions, including the effects on the prosecution, the defense, the courts, the correctional process, costs, transfers and appeals;

(6) the incidence and length of, reasons for, and remedies for detention prior to trial, and information required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial;

(7) the identity of cases which, because of their special characteristics, deserve separate or different time limits as a matter of statutory classifications; [and]

(8) the incidence of, and reasons for each thirty-day extension under section 3161(b) with respect to an indictment in that district[.]*; and*

(9) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in the district.

(c) Each district plan required by section 3165 shall include information and statistics concerning the administration of criminal justice within the district, including, but not limited to:

(1) the time span between arrest and indictment, indictment and trial, and conviction and sentencing;

(2) the number of matters presented to the United States Attorney for prosecution, and the numbers of such matters prosecuted and not prosecuted;

(3) the number of matters transferred to other districts or to States for prosecution;

(4) the number of cases disposed of by trial and by plea;

(5) the rates of nolle prosequi, dismissal, acquittal, conviction, diversion, or other disposition; [and]

(6) the extent of preadjudication detention and release, by numbers of defendants and days in custody or at liberty prior to disposition[.]*; and*

(7)(A) the number of new civil cases filed in the twelve-calendar-month period preceding the submission of the plan;

(B) the number of civil cases pending at the close of such period; and

(C) the increase or decrease in the number of civil cases pending at the close of such period, compared to the number pending at the close of the previous twelve-calendar-month period, and the length of time each such case has been pending.

(d) Each plan shall further specify the rule changes, statutory amendments, and appropriations needed to effectuate further improvements in the administration of justice in the district which cannot be accomplished without such amendments or funds.

(e) Each plan shall include recommendations to the Administrative Office of the United States Courts for reporting forms, procedures, and time requirements. The Director of the Administrative Office of the United States Courts, with the approval of the Judicial Conference of the United States, shall prescribe such forms and procedures and time requirements consistent with section 3170 after consideration of the recommendations contained in the district plan and the need to reflect both unique local conditions and uniform national reporting standards.

(f) Each plan may be accompanied by guidelines promulgated by the judicial council of the circuit for use by all district courts within that circuit to implement and secure compliance with this chapter.

§ 3167. Reports to Congress

(a) The Administrative Office of the United States Courts, with the approval of the Judicial Conference, shall submit periodic reports to Congress detailing the plans submitted pursuant to section 3165. The reports shall be submitted within three months following the final dates for the submission of plans under section 3165(e) of this title.

(b) Such reports shall include recommendations for legislative changes or additional appropriations to achieve the time limits and objectives of this chapter. The report shall also contain pertinent information such as the state of the criminal docket at the time of the adoption of the plan; the extent of pretrial detention and release; and a description of the time limits, procedural techniques, innovations, systems, and other methods by which the trial or other disposition of criminal cases have been expedited or may be expedited in the districts. *Such reports shall also include the following:*

(1) The reasons why, in those cases not in compliance with the time limits of subsection (b) and (c) of section 3161, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay.

(2) The category of offenses, the number of defendants, and the number of counts involved in those cases which are not meeting the time limits specified in subsection (b) and (c) of section 3161.

(3) The additional judicial resources which would be necessary in order to achieve compliance with the time limits specified in subsections (b) and (c) of section 3161.

(4) The nature of the remedial measures which have been employed to improve conditions and practices in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter.

(5) If a district has experienced difficulty in complying with this chapter, but an application for relief under section 1374 has not been made, the reason why such application has not been made.

(6) The impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in each district as demonstrated by the information assembled and statistics compiled and submitted under sections 3166 and 3170.";

(c) Not later than December 31, 1980, the Department of Justice shall prepare and submit to the Congress a report which sets forth the impact of the implementation of this chapter upon the office of the United States Attorney in each district and which shall also include—

(1) the reasons why, in those cases not in compliance, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay;

(2) the nature of the remedial measures which have been employed to improve conditions and practices in the offices of the United States Attorneys in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter;

(3) the additional resources for the offices of the United States Attorneys which would be necessary to achieve compliance with the time limits of subsections (b) and (c) of section 3161;

(4) suggested changes in the guidelines or other rules implementing this chapter or statutory amendments which the De-

partment of Justice deems necessary to further improve the administration of justice and meet the objectives of this chapter; and

(5) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the litigation of civil cases by the offices of the United States Attorneys and the rule changes, statutory amendments, and resources necessary to assure that such litigation is not prejudiced by full compliance with this chapter.

§ 3168. Planning process

(a) Within sixty days after July 1, 1975, each United States district court shall convene a planning group consisting at minimum of the Chief Judge, a United States magistrate, if any designated by the Chief Judge, the United States Attorney, the Clerk of the district court, the Federal Public Defender, if any, **[**a private attorney experienced in the defense of criminal cases in the district**]** *two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district*, the Chief United States Probation Officer for the district, and a person skilled in criminal justice research who shall act as reporter for the group. This group shall advice the district court with respect to the formulation of all district plans and shall submit its recommendations to the district court for each of the district plans required by section 3165. The group shall be responsible for the initial formulation of all district plans and of the reports required by this chapter and in aid thereof, it shall be entitled to the planning funds specified in section 3171.

* * * * * * *

§ 3170. Speedy trial data

(a) To facilitate the planning process **[**and**]**, the implementation of the time limits, and *continuous and permanent compliance with the* objectives of this chapter, the clerk of each district court shall assemble the information and compile the statistics **[**required by**]** *described in* section 3166(b) and (c) of this title. The clerk of each district court shall assemble such information and compile such statistics on such forms and under such regulations as the Administrative Office of the United States Courts shall prescribe with the approval of the Judicial Conference and after consultation with the Attorney General.

[§ 3174. Judicial emergency] *§ 3174. Judicial emergency and implementation*

(a) In the event that any district court is unable to comply with the time limits set forth in section 3161(c) due to the status of its court calendars, the chief judge, where the existing resources are being efficiently utilized, may, after seeking the recommendations of the planning group, apply to the judicial council of the circuit for a suspension of such time limits. The judicial council of the circuit shall evaluate the capabilities of the district, the availability of visiting judges from within and without the circuit, and make any recommendations it deems appropriate to alleviate calendar congestion resulting from the lack of resources **[**.**]**, *as described in subsection (b)*.

(b) **[**If the judicial council of the circuit shall find that no remedy for such congestion is reasonably available, such council may apply to the Judicial Conference of the United States for a suspension of time limits sets forth in section 3161(c). The Judicial Conference, if it finds that such calendar congestion cannot be reasonably alleviated, may grant a suspension of the time limits in section 3161(c) for a period of time not to exceed one year for the trial of cases for which indictments are filed during such period.**]** "*If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) in such district for a period of time not to exceed one year for the trial of cases for which indictments or informations are filed during such one-year period.* During such period of suspension the time limits from arrest to indictment, set forth in section 3161(b), shall not be reduced, nor shall the sanctions set forth in section 3162 be suspended; but such time limits from **[**arrangement**]** *arraignment* to trial shall not be increased to exceed one hundred and eighty days. The time limits for the trial of cases of detained persons who are being detained solely because they are awaiting trial shall not be affected by the provisions of this section.

[(c) Any suspension of time limits granted by the Judicial Conference shall be reported to the Congress within ten days of approval by the Director of the Administrative Office of the United States Courts, together with a copy of the application for such suspension, a written report setting forth detailed reasons for granting such approval and a proposal for increasing the resources of such district. In the event an dditional period of suspension of time limits is necessary, the Direc- or of the Administrative Office of the United States Courts shall so ndicate in his report to the Congress, which report shall contain such pplication for such additional period of suspension together with any ther pertinent information. The Judicial Conference shall not grant suspension to any district within six months following the expiration f a prior suspension without the consent by the Congress. Such con- ent may be requested by the Judicial Conference by reporting to the ongress the facts supporting the need for a suspension within such x-month period. Should the Congress fail to act on any application r a suspension of time limits within six months, the Judicial Confer- ce may grant such a suspension for an additional period not to ex- ed one year.**]**

(c)(1) If, prior to July 1, 1981, the chief judge of any district con- udes, with the concurrence of the planning group convened in the strict, that the district is prepared to implement the provisions of tion 3162 in their entirety, he may apply to the judicial council of e circuit in which the district is located to implement such provisions. ch application shall show the degree of compliance in the district th the time limits set forth in subsections (b) and (c) of section 1 during the twelve-calendar-month period preceding the date of h application and shall contain a proposed order and schedule for h implementation, which includes the date on which the provisions section 3162 are to become effective in the district, the effect such plementation will have upon such district's practices and procedures, l provision for adequate notice to all interested parties.

2) After review of any such application, the judicial council of the uit shall enter an order implementing the provisions of section

3162 in their entirety in the district making application, or shall return such application to the chief judge of such district, together with an explanation setting forth such council's reasons for refusing to enter such order.

(d)(1) The approval of any application made pursuant to subsections (a) or (c) by a judicial council of a circuit shall be reported within ten days to the Director of the Administrative Office of the United States Courts, together with a copy of the application, a written report setting forth in sufficient detail the reasons for granting such application, and, in the case of an application made pursuant to subsection (a), a proposal for alleviating congestion in the district.

(2) The Director of the Administrative Office of the United States Courts shall forthwith transmit such report to the Congress and to the Judicial Conference of the United States. The judicial council of the circuit shall not grant a suspension to any district within six months following the expiration of a prior suspension without the consent of the Congress.

(3) If the judicial council concludes that an additional period of suspension within such six-month period is necessary, it shall report that conclusion to the Judicial Conference of the United States, together with the application from the district court for such additional period of suspension and any other pertinent information. If the Judicial Conference agrees that such additional period of suspension is necessary, it may request the consent of the Congress thereto. If the Congress fails to act on any such request within six months, the suspension may be granted for an additional period not to exceed one year.

(e) If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the limits suspended for a period not to exceed thirty days. Within ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a).

○

Calendar No. 229

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-213

AUTHORIZING THE PAYMENT OUT OF THE CONTINGENT FUND OF THE SENATE OF THE EXPENSES INCURRED BY SENATOR MORGAN IN SUPPORTING A MOTION TO QUASH CERTAIN SUBPENAS SERVED IN AN ANTITRUST LEGAL PROCEEDING

JUNE 18 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. PELL, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 96]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 96) authorizing payment out of the contingent fund of the Senate of expenses incurred by Senator Morgan supporting a motion to quash certain subpenas served in the case of Zenith Radio Corp. against Matsushita Electric Industrial Co., Ltd., et al., having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

Senate Resolution 96 would provide that expenses, including attorneys' fees, incurred by Senator Robert Morgan in supporting a motion to quash and thereby intervene in his behalf in the private antitrust case, *Japanese Electronic Products Antitrust Litigation*, M.D.L. 189 (E.D. Pa.) ("*Japanese Antitrust Litigation*"), be paid from the contingent fund of the Senate on vouchers signed by Senator Morgan and approved by the Committee on Rules and Administration.

SUMMARY OF LEGAL ISSUES

The importance of the legal issues to the Senate and the Congress presented by the factual background motivating this resolution can be summarized as:

(1) Whether private parties can use the judicial process to discover the content of private communications made to a Senator at his or her request that relate directly to the Senator's legislative duties and thereby infringe upon the "speech or debate" privilege?

(2) Whether Senators have a constitutionally privileged confidential relationship with persons who, at the request of Senators, supply them with information for use in the legislative process?

(3) Whether private parties can seek by judicial process to discover the content of private communications made to a Senator for use in the legislative process, the content of such communications constituting grievances of a citizen under the first amendment, "to petition the Government for a redress of grievances"?

BACKGROUND

On June 7, 1978, Senator Robert Morgan and Carl Curtis introduced an amendment (see unprinted amendment No. 1328, 124 Cong. Rec., S 8783 (daily ed. June 7, 1978)) to the Customs Procedural Reform Act (H.R. 8149) to assure that deliberate false statements and/or false filings prohibited under the Tariff Act, would not be affected by elements of the pending legislation that could have allowed those responsible for the dumping of Japanese television sets to escape the penalties applicable at the time the violation occurred and perhaps to escape all penalty.

The Senate adopted such amendment on June 7, 1978 (see 124 Cong. Rec. S 8785 (daily ed. June 7, 1978)), and a narrower version specifically referencing Japanese color television sets was adopted in conference and signed into law. (See Public Law No. 95-410.)

On June 27, 1978, Senator Morgan placed in the Congressional Record a summary of evidence substantiating the need for the Curtis-Morgan amendment, such consisting of documents and depositions from the public record in the *Japanese Electronic Products Antitrust Litigation* (see 124 Cong. Rec. S 9923, S 9924–9927 (daily ed. June 27, 1978)). Such information was supplied to Senator Morgan at his request by Mr. Bernard Nash, a Washington, D.C., attorney and a counsel in other matters for Zenith Radio Corp. This company was one of two plaintiffs in the antitrust case, and was one of the American television companies allegedly damaged by the dumping.

On July 28, 1978, numerous defendants in the *Japanese Antitrust Litigation* caused subpenas to be served on Mr. Nash, demanding that he appear 5 days later for the taking of depositions and bring with him all documents relating in any way to Senator Morgan's remarks before the Senate on June 27, 1978, about H.R. 8149, and all information and documents relating to the identity of any person who communicated with Senator Morgan or any members of his staff concerning information included in his remarks on the floor of the U.S. Senate with such subpena by its broad terms including copies of letters sent to as many as nine other Senators.

The chronology of other pertinent events follows:

August 15, 1978

Mr. Nash, through his attorney immediately sought to quash the subpenas in the U.S. District Court, District of Columbia, and to obtain a protective order against production of the requested documents. Upon motion of defendants, the matter was transferred to the U.S.

District Court in Philadelphia where the case in chief was pending. Among the matters raised by Mr. Nash in his motion to quash and pleadings before the U.S. District Court for the Eastern District of Pennsylvania were the issues of legislative privilege and immunity, including the speech or debate clause privilege provided to Members of Congress under article I, paragraph 6, clause 1 of the U.S. Constitution.

August 16, 1978

The U.S. District Court, Philadelphia, after ordering an accelerated briefiing and hearing schedule, conducted a hearing and inquired whether any Member of Congress named in the subpenas shared Mr. Nash's position concerning constitutional privileges. Briefs on the issue were ordered filed by August 24, 1978.

August 22, 1978

Senator Morgan personally moved the court to intervene in the court proceedings. Because Senator Morgan had only 8 days under the court schedule to respond to the court's inquiry, he sought an extension of time to file his brief on the merits. The Senator indicated in his intervention motion that he wished to assert that the subpenas infringed the investigatory authority of the U.S. Senate.

September 22, 1978

With 30 days from August 22, 1978, to obtain counsel and have counsel file a brief on the merits, Senator Morgan retained Professor Paul Bender, a member of the University of Pennsylvania law school faculty and a noted expert in matters of constitutional law. Professor Bender filed a motion for leave to amend the prior motion to intervene, an amended motion to intervene and a motion to limit discovery along with a supporting memorandum of law.

September 25, 1978

Senator Morgan introduced Senate Resolution 568, comparable in anguage to Senate Resolution 96, 96th Congress, to authorize paynent out of the contingent fund of the Senate for his legal expenses n support of Mr. Nash's motion to quash the subpenas of the *Japanese Antitrust Litigation* defendants. (S. Res. 568 not acted on by the Sente in the 2d session, 95th Congress.)

eptember 28, 1978

Professor Bender represented Senator Morgan at lengthy court earings in U.S. District Court, Philadelphia, and filed a supplemenl letter on November 22, 1978, concerning certain issues raised at the eptember 25 hearings and subsequent developments in other cases.

arch 12, 1979

Senator Morgan introduced Senate Resolution 96, 1st session, 96th ongress, comparable to Senate Resolution 568 of the 95th Congress, payment of legal fees.

pril 12, 1979

The U.S. District Court, Philadelphia, Pa., in pretrial order No. 3, ruled orally, that Mr. Nash's motion to quash the subpena be anted, such decision arrived at without the court reaching the speech or debate issues raised in Senator Morgan's intervention motion. The court used the grounds that the *subpenas duces tecum* were not relevant to the case in chief of the Japanese antitrust litigation. Thus, this challenge raised to the Senate's "speech or debate" privileges was not successful.

THE LEGAL ISSUE AND EXPLANATION OF COMMITTEE ACTION

This resolution focuses on the parameters of constitutional rights, privileges, and obligations of Members of Congress. Therein, more precisely lies the legal motivation behind Senate Resolution 96 relating to the protection of the "informing function" of Members of Congress, and more particularly whether a member of the public, Mr. Nash in this case, can be questioned in any place other than the Senate concerning the information for legislative purposes that he provided to Senator Morgan at the latter's request to assist in pursuing legislativ ends.

Thus if such a privilege was recognized under the speech or debate clause or the general concept of legislative privilege, it would benefit the Senate as a whole by making it easier for Senators to obtain information from persons who otherwise might be reluctant to supply such information if there was a danger that such could be discovered by a court process by their competitors or opponents in a legislativ setting.

As set forth above in the date chronology under the April 12, 1979 heading, it must be noted that the primary legal issues presented by this matter are moot for the present with respect to Senator Morga and the ongoing *Japanese Antitrust Litigation* unless defendant therein appeal the court's April 12, 1979, denial of their efforts to subpena documents, records, letters, and papers supplied to Senato Morgan by Nash.

As indicated, the court's denial was ordered without the court reaching the speech or debate issue. It could be argued however, that ha not the speech or debate issues raised by Senator Morgan by his intervention and discovery limitation motions or by Mr. Nash's motion t quash, the court probably would not have had the opportunity to hav the congressional "speech or debate" privilege arguments in the expressive and intensive form presented by Senator Morgan's counse Professor Bender.

It should be borne in mind that the courts have not yet extende the protection of the "speech or debate" clause to communications fro a constituent to a Member of Congress on legislative matters. The subpenaing of Mr. Nash's documents, etc., provided to Senator Morgan o a legislative matter afforded that factual opportunity for a judicial determination had the court ruled precisely on that point, which it di not.

If no appeal is taken on the court's granting of Mr. Nash's motio to quash, the precise legal question presented here has not been settle by the court's ruling of April 12, 1979. That ruling was grounded o the court's judgment that the documents sought by the *subpena duc tecum* were irrevelant to the antitrust proceeding being litigated. Thu the court did not reach or rule on the "speech or debate" questio raised by both Mr. Nash's and Senator Morgan's motions.

CONCLUSION

It was the committee's judgment that the protection of the constitutional privileges granted to the legislative branch (Congress) as represented in this matter was of utmost importance even though under ordinary circumstances a Senator should seek advance approval before there is an obligation of public funds rather than after the fact. However, in this instance the committee agreed that the legal situation required immediate action to protect the important, unique, and constitutionally based interests of the Senate. As Senator Morgan testified at the committee hearing on June 6, 1979, "Time was of the essence and delay was tantamount to defeat."

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Calendar No. 232

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–214

FOR THE RELIEF OF MARLIN TOY PRODUCTS, INC.

JUNE 14 (legislative day, MAY 21), 1979.—Ordered to be printed

MR. KENNEDY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 648]

The Committee on the Judiciary, to which was referred the bill (S. 648) for the relief of Marlin Toy Products, Inc., having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

AMENDMENT

On page 2, line 2, beginning with the word "claims", strike all through the word "regulations." on line 8, and insert in lieu thereof the following:

> claims against the United States based upon inaccurate description of two of its toy products, the "Birdie Ball," and the "Flutter Ball," on the Banned Products List of the Consumer Product Safety Commission as published in the Federal Register on October 24, 1973.

PURPOSE

The purpose of the bill is to authorize the Secretary of the Treasury to pay the sum of $40,000 to Marlin Toy Products, Incorporated, of Horicon, Wisconsin, in full settlement of all its claims against the United States based upon an inaccurate description of certain toy products on the Banned Products List of the Consumer Products Safety Commission.

The purpose of the amendment is to more accurately reflect the facts established by the Court of Claims.

STATEMENT

The facts have been fully set forth in the opinion filed by the Trial Commissioner of the Court of Claims on September 29, 1978 (*Marlin Toy Products, Inc.*, v. *The United States*, Cong. Ref. 2–74 and 1–75). The Court of Claims Review Panel concurred in an opinion filed December 19, 1978 with the Trial Commissioner that Marlin Toy Products, Incorporated, is entitled to relief in the sum of $40,000. The committee is in receipt of copies of both documents. The Review Panel's opinion is attached to and made a part of this report:

BEFORE THE CHIEF COMMISSIONER, UNITED STATES COURT OF CLAIMS

In Congressional Reference Case Nos. 2–74 and 1–75,
(Filed December 19, 1978)

MARLIN TOY PRODUCTS, INCORPORATED

v.

THE UNITED STATES

REPORT TO THE UNITED STATES SENATE AND TO THE UNITED STATES HOUSE OF REPRESENTATIVES

Aaron Locker, attorney of record, for plaintiff.

Stephen G. Anderson, with whom was *Assistant Attorney General Barbara Allen Babcock*, for defendant.

Before BERNHARDT, *Presiding Commissioner of the Review Panel*. WILLI and WIESE, *Commissioners*.

OPINION

By the Review Panel: S. Res. 344 and H.R. Res. 1181, 93d Cong. 2d Sess., referred S. 3666 and H.R. 17652, respectively, to the Chief Commissioner of the United States Court of Claims for proceedings and report pursuant to 28 U.S.C. § 1492 and § 2509 (1970). The bills, each of which was styled "A bill for the relief of Marlin Toy Products Inc.", were referred together with their accompanying resolutions to Trial Commissioner Schwartz for the conduct of further proceedings in accordance with the Rules of the Chief Commissioner. On September 29, 1978, Trial Commissioner Schwartz filed an opinion, findings of fact, and conclusion in which, based on a stipulation of facts between the parties, it was recommended that the Congress be advised that the claimant has an equitable claim against the United States in the amount of forty thousand dollars ($40,000); that payment of said sum would not be a gratuity; and that the said claimant is entitled to relief which would be afforded by the enactment of legislation similar to S. 3666, 93d Cong., or H.R. 17652, 93d Cong., in the said amount.

best copy available

On December 14, 1978, the parties filed a joint motion for the Review Panel to adopt in its entirety the Trial Commissioner's opinion. We concur in the opinion, findings of fact, and conclusion of Trial Commissioner Schwartz, with one minor correction of a date at page 4, line 3, in the opinion changing "1973" to "1972".

Accordingly, the Congress is informed that, in accordance with the opinion of the Trial Commissioner and the parties' joint motion for its adoption, the claimant has an equitable claim against the United States in the amount of forty thousand dollars ($40,000); that payment of said sum would not be a gratuity; and that the said claimant is entitled to relief which would be afforded by the enactment of legislation similar to S. 3666, 93d Cong., or H.R. 17652, 93d Cong., in the said amount.

In a letter dated May 29, 1979, the Assistant Attorney General for the Civil Division recommended that S. 648 be enacted. The Department of Justice's views are set forth as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., May 29, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your letter of April 19, 1979, requesting our comments on S. 648, a proposed bill for the relief of Marlin Toy Products, Incorporated.

We recommend that the bill be enacted.

The claim of Marlin Toy Products was previously before the Senate Judiciary Committee as S. 3666 in the 93rd Congress, Second Session. At that time the bill contained no definite sum to be paid to Marlin. By Senate Resolution 344 the bill was referred to the Chief Commisioner of the United States Court of Claims for a report in accordance with 28 U.S. C. §§ 1492 and 2509 (1970). A similar bill, H.R. 17652, lso was referred to the Chief Commissioner by H.R. Res. 1181.

The Chief Commissioner consolidated both references, conducted a earing, and filed his Report on December 19, 1978. The Report conludes that Marlin has an equitable claim against the United States in he amount of $40,000.00.

As demonstrated by the Findings of Fact in the report of the Chief ommissioner, the injury caused to Marlin Toy Produces warrants ompensation. The company was a toy manufacturer which had sevral of its toys banned by the Consumer Product Safety Commission fter those toys were demonstrated to be mechanical hazards within the eaning of the Federal Hazardous Substances Act, 15 U.S.C. § 1261, 274 (1970 & Supp. II 1972), and implementing regulations. Marlin edesigned two of the toys to eliminate the hazards. Thereafter, the ommission expressly advised Marlin that the redesigned toys "would ot be classified as banned hazardous substances."

In anticipation of the 1973 Christmas shopping season, the Commison prepared and published a cumulative list of all toys which had en classified as being hazardous. The original versions of Marlin's ys were properly included on that list. Due to a proof-reading error, owever, the descriptive code intended to distinguish the non-hazards, redesigned versions of the toys from the banned versions did not appear. As a result, prospective purchasers were led to conclude, erroneously, that all versions of the toys were banned. While the CPSC moved promptly to correct its error, a loss in sales of $40,000.00 was suffered by Marlin. Other damages previously claimed by Marlin have been disproved and were consequently rejected in the Chief Commissioner's report.

That an error was made by the Commission is self-evident, and the CPSC has never sought to disavow responsibility for it. The error was, as noted, one that occurred in the mechanical process of assembling the 1973 Banned Products List; it was not an error in judgment or in the construction or application of the Federal Hazardous Substances Act. Nonetheless, the law in effect at the time afforded Marlin no legal recourse whatsoever. To our knowledge, Marlin is the only company to have been injured in this fashion by the CPSC. The Chief Commissioner's report is based upon a stipulation of facts which both the Commission and Marlin accept as true and accurate.

In these circumstances, we believe that Marlin should be paid $40,000.00 for sales lost because of the misdescription of its toys in the 1973 Banned Products List and recommend that S. 648 be enacted to accomplish this end.

Yours very truly,

BARBARA ALLEN BABCOCK,
Assistant Attorney General,
Civil Division.

The U.S. Consumer Product Safety Commission also supports enactment of S. 648.

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
Washington, D.C., May 29, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for allowing us the opportunity to comment on S. 648, a bill for the relief of Marlin Toy Products, Inc. of Horicon, Wisconsin, now pending before your committee.

This bill would authorize and direct the Secretary of the Treasury to pay Marlin Toy Products, Inc. the sum of $40,000 in full settlement of all its claims against the United States based upon an erroneous inclusion of some of its toy products on the Banned Products List published by the Consumer Product Safety Commission on October 1, 1973.

The Commission supports this bill and the payment based upon the findings of the Chief Trial Commissioner of the United States Court of Claims. The Findings of Fact filed in the Court of Claims on September 29, 1978 in *Marlin Toy Products, Inc.* v. *The United States*, Congressional Reference Nos. 2–74 and 1–75, disclose that on November 1, 1972 and December 5, 1972, the Bureau of Product Safety of the Food and Drug Administration banned two toys manufactured by Marlin Toy Products, Inc., the Flutter Ball and Birdie Ball respectively. The toys were banned from distribution as presenting mechanical hazards within the meaning of the Federal Hazardous Substances Act, as it read in 1972, and the relevant regulations. The toys were subsequently redesigned to eliminate the mechanical hazards and were returned to sale. In October, 1973, the Commission published a cumulative list of toys that had been banned to aid consumers in selecting safe toys during the Christmas season. The list inaccurately described the two Marlin Toy Products toys. It failed to distinguish between the banned and redesigned versions of the Flutter Ball and listed the redesigned Birdie Ball as banned. The Trial Commissioner in the Court of Claims found that Marlin Toy Products was damaged by the error in the amount of $40,000.

Marlin Toy Products, Inc. originally claimed that the Commission's error had resulted in the failure, and ultimate bankruptcy of the firm. That claim has not been supported by the Trial Commissioner, who found that:

> [f]rom 1971 onwards Marlin suffered business losses. In December 1973 or January 1974 Marlin initiated efforts to sell its toy-making assets. Thereafter, Marlin went out of business entirely. Marlin does not claim that these business reverses or the eventual loss of its business was caused by the Government or by the Government's error.

The Commission is pleased that the record now supports the Commission's positions that Marlin Toy Products' failure resulted from business reverses unrelated to Government activities to protect consumers from unsafe toys.

While the Commission supports compensating Marlin Toy Products in the sum of $40,000, it believes the bill should be revised to accurately reflect the facts established by the Court of Claims. The Commission recommends that lines 7 through 11 on page 1 and lines 1 and 2 on page 2 of the bill be revised to read as follows: "claims against the United States based upon inaccurate description of two of its toy products, the "Birdie Ball" and the "Flutter Ball" on the Banned Products List of the Consumer Products Safety Commission as published in the Federal Register on October 24, 1973." Since the Birdie Ball and Flutter Ball had properly been banned and included on the Banned Products List, the recommended language, i.e. "inaccurate description," more accurately describes what occurred than does the language of the bill, i.e., "an erroneous inclusion."

Sincerely,

SUSAN B. KING, *Chairman.*

COST

The enactment of this legislation would authorize and direct the Secretary of the Treasury to pay $40,000 to Marlin Toy Products, Incorporated, in full settlement of all its claims against the United States. In view of the findings and conclusions made by the United States Court of Claims, it is recommended that S. 648, as amended, be considered favorably.

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Calendar No. 233

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96–215

THE LIABILITY FOR THE REPAYMENT OF CERTAIN ERRONEOUSLY MADE CONTRIBUTIONS BY THE UNITED STATES

JUNE 14 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. KENNEDY, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 400]

The Committee on the Judiciary, to which was referred the bill (S. 400) to relieve the liability for the repayment of certain erroneously made contributions by the United States to six private libraries, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill as amended do pass.

AMENDMENTS

At the end of the text of the bill add a new section 2 as follows:

> SEC. 2. In the audit and settlement of the accounts of certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by the Act.

PURPOSE

The purpose of the bill is to release six privately owned libraries in Pennsylvania from liability for the repayment of contributions erroneously made by the United States for disaster relief following Hurricane Agnes.

HISTORY

An identical bill, S. 1147, was favorably reported by the Judiciary Committee of the 95th Congress and passed the Senate on September 14, 1978. No final action was taken by the House.

STATEMENT

The facts are set out in the favorable report of the General Counsel of the Department of Housing and Urban Development. The report is attached to and made a part of this report, as follows:

Department of Housing and Urban Development,
Office of the General Counsel
Washington, D.C.

Hon. Edward M. Kennedy,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

(Subject: S. 400 (Schweiker), 96th Congress.)

Dear Mr. Chairman: This is in response to your request for our views on S. 400, a bill to relieve the liability for the repayment of certain erroneously made contributions by the United States.

The bill would release six privately owned libraries in Pennsylvania from liability for the repayment of contributions erroneously made by the United States for disaster relief in connection with Hurricane Agnes.

In June 1972 a number of States, including Pennsylvania, suffered extensive damage from tropical storm Agnes. Section 252(a) of the Disaster Relief Act of 1970 (Public Law 91-606) authorized Federal payments to State and local governments for the repairs, restoration or replacement of public facilities. Accordingly, the Federal Government[1] made payments to local governments for repairs to destroyed or damaged public facilities including the six privately owned libraries stipulated in the bill. However, it was later determined that although these libraries were nonprofit entities and did receive some public support, they were, as privately rather than publicly owned facilities, improper recipients of the disaster relief funds.

The payments were made in an emergency situation when speedy determination of eligibility and dispensing of assistance were absolutely essential. There were at the time some indicia of the public nature of the libraries to support a determination of public ownership—all received public funds from local tax revenues and provided services free of charge to the public, and five of the six library facilities were in structures owned by a library board or association and had corporate names implying public ownership.

It was not until the spring of 1976, when the FDAA's Central Office reviewed a request for a time extension for completion of repairs to one of the libraries involved, that the question arose as to the eligibility of the libraries for assistance as publicly owned facilities. In June 1976, this Department's Office of General Counsel issued a legal opinion concluding that the Federal Government had not been authorized to make contributions to repair damages to the six libraries in question since, despite the fact that they were nonprofit institutions supported in part by public funds, they did not belong to a State or local government as required by the Disaster Relief Act of 1970. In the meantime, the libraries had expended the Federal funds received under the act in reliance upon the Federal Government's determination as to their eligibility.

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[1] Authority for making these payments was at this time vested in the Office of Emergency Preparedness in the Executive Office of the President. Authority for disaster relief assistance of this nature was subsequently (1973) vested in this Department's Federal Disaster Assistance Administration (FDAA).

The libraries, although technically privately owned, served the public without charge. Given the speed with which a large volume of disaster assistance applications had to be processed after tropical storm Agnes, and the public nature of these facilities, the mistake that occurred is understandable. To require the libraries to reimburse the Government for these grants at this time would only serve to penalize the beneficiaries of their services—the public. In our opinion, this is a case of limited applicability where, because of the unique circumstances involved, the remedy provided by the bill will not establish an undesirable precedent.

Accordingly, we would have no objection to the enactment of S. 400. The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

EDWARD W. NORTON,
Acting General Counsel.

The Comptroller General of the United States sets forth his reasons for not objecting to the enactment of this legislation in the following correspondence:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 22, 1979.

B-194541.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary,
U.S. Senate.

DEAR MR. CHAIRMAN: This concerns your request for our comments on S. 400, 96th Congress, a bill to relieve certain privately owned libraries in Pennsylvania from liability for repayment of $561,066.09 erroneously remitted to them by the Federal Government.

In June 1972, as a result of Hurricane Agnes, the six privately owned libraries identified in S. 400 suffered varying degrees of damage. Subsequent to the President declaring Pennsylvania a major disaster area, the Federal Disaster Assistance Administration (FDAA) approved applications from a number of local governments in Pennsylvania on behalf of the libraries, pursuant to the Disaster Relief Act of 1970, Pub. L. 91-66, 84 Stat. 1744. (That Act was been essentially repealed by the Disaster Relief Act of 1974, 88 Stat. 143, 164, 42 U.S.C. 5121 *et seq.* (1976)). A total of $561,066.09 was provided to the libraries for repairs.

In spring 1976, while reviewing a request for a time extension for completion of repairs for one of the libraries, the FDAA requestioned the eligibility of the libraries to receive assistance as publicly owned facilities. In June 1976, the Office of General Counsel of the Department of Housing and Urban Development (HUD) issued a legal opinion concluding that the funds were improperly provided to the libraries since they were privately owned; assistance awards under the Disaster Relief Act of 1970 were limited to publicly owned institutions. By the time this conclusion was reached, the libraries apparently had expended all or nearly all of the funds received.

A private relief bill similar to S. 400 (S. 1147, 95th Congress) was reported on favorably by your Committee and was passed by the

Senate on September 14, 1978; however, it was never voted on in the House, presumably due to time considerations. In response to a request for its comments on S. 1147, HUD's Office of General Counsel concluded that relief for the libraries was warranted because:

> "The libraries, although technically privately owned, served the public without charge. Given the speed with which a large volume of disaster assistance applications had to be processed after tropical storm Agnes, and the public nature of these facilities, the mistake that occurred is understandable. To require the libraries to reimburse the Government for these grants at this time would only serve to penalize the beneficiaries of their services—the public. In our opinion, this is a case of limited applicability where, because of the unique circumstances involved, the remedy provided by the bill will not establish an undesirable precedent. . . ." (Quoted in S. Rep. No. 95-1183, 95th Cong., 2d Sess. 3 (1978).)

As a matter of general policy, this Office does not favor legislation granting private relief of indebtedness to the United States Government. We take this position because the beneficiaries of such legislation are afforded an advantage not enjoyed by others similarly situated who have not had special legislation passed on their behalf. B-188817 (July 11, 1977). Exceptions have been made, however, when the circumstances are extraordinary and unlikely to be replicated, and when equitable considerations strongly favor relief. (*Id.*)

The damage resulted from a natural disaster; the funds were applied for and received in response to the damage caused by the disaster and were eventually expended for repairs. We also note that HUD, whose Office of General Counsel concluded that the funds were awarded improperly, found that the unique circumstances warranted private relief. Additionally, the Disaster Relief Act of 1974, *supra*, which repealed the 1970 Act, contains a section which authorizes assistance for repair, restoration, reconstruction or replacement of private nonprofit educational facilities damaged in disasters. 42 U.S.C. sec. 5172(b) (1976). According to the sponsor of this bill, these six libraries are the only ones nationwide, to whom such erroneous payments were made. Moreover, the libraries do have public support, even though they are not publicly owned. In view of all the foregoing factors, we would not object to the granting of the relief described.

We would point out two technical matters that the Committee may wish to consider. First, we think S. 400 might include a provision giving any certifying or disbursing officer involved in the approval or expenditure of the monies credit for the amounts for which liability is relieved. A provision of this type is included in H.R. 2064, 96th Cong., a related bill in the House. If such a provision is not included, such certifying and disbursing officers could still be held liable for the amount of the improper payments. Second, we think that private relief should not include any insurance monies that might have been received by the libraries for damages for which Government funds were also provided. We do not think the libraries should be twice indemnified for the same damage if, in fact, that did occur.

We hope we have been of assistance.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General.

COST

The enactment of this legislation involves no direct additional expenditure to the Government.

Accordingly, the committee recommends favorable consideration of S. 400.

* * * * * * *

[S. 400, 96th Congress, 1st session]

A BILL To relieve the liability for the repayment of certain erroneously made contributions by the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 252(a) of the Disaster Relief Act of 1970, any unit of local government or any of the following privately owned libraries is relieved from any liability for the repayment of contributions erroneously made by the United States for disaster relief activities for the benefit of the following private facilities which were damaged or destroyed by Hurricane Agnes:

(1) the William D. Himmelreich Memorial Library in Lewisburg, Pennsylvania, in the amount of $4,136;

(2) the Milton Library in Milton, Pennsylvania, in the amount of $21,869;

(3) the Shippensburg Public Library in Shippensburg, Pennsylvania, in the amount of $12,827;

(4) the West Shore Public Library in Camp Hill, Pennsylvania, in the amount of $26,772;

(5) the Osterhout Library in Wilkes-Barre, Pennsylvania, in the amount of $457,318; and

(6) the West Pittston Library in West Pittston, Pennsylvania, in the amount of $9,984.

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Calendar No. 234

96th Congress
1st Session

SENATE

Report
No. 96–216

YAEKO HOWELL

June 14 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Kennedy, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 404]

The Committee on the Judiciary, to which was referred the bill (S. 404) for the relief of Yaeko Howell, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Yaeko Howell may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: Provided, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive the excluding provisions of existing law relating to one who has been convicted of a violation of any law or regulation relating to the illicit possession of, or traffic in, narcotic drugs or marihuana in behalf of the spouse of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of the bill is a 50-year-old native and citizen of Japan, presently residing in Otu-Shi, Japan, and is not employed. Beneficiary married to M. Sgt. Kennard Howell, U.S. citizen on February 26, 1970, in Tokyo. There are no children of this marriage. Ser-

geant Howell enlisted in the Air Force in May 1956, and is presentl
serving at Williams Air Force Base, Ariz. Beneficiar, was convicte
on February 21, 1956, for possession of 0/0329 grams of diacetyl-morphine and was sentenced to 8 months forced labor with 20 days pretrial confinement to be included in the punishment.

Beneficiary was denied immigrant visa at the American Consulate Quebec City, Canada, in 1974, due to narcotic conviction in 1956. Beneficiary has made four entries into the United States as a nonimmigran visitor and has led an exemplary life since 1956. She is anxious to joi her husband in the United States. Sergeant Howell has had an outstanding career in the Air Force and would like to separate from th Air Force in 1982 because he will have served his maximum servic time, however, he doesn't feel he can live in Japan because of the lac of job opportunities for him.

A letter with attached memorandum to the former chairman of th Judiciary Committee from the Commissioner of Immigration an Naturalization Service regarding S. 1843, a similar bill for the relie of the same beneficiary in the 95th Congress, reads as follows:

U.S. Department of Justice,
Immigration and Naturalization Service,
Washington, D.C., March 22, 1978.

A 21-670-040.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary, U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (S. 1843) for the relief of Yaeko Howell, there is attached a memorandum of information concerning the beneficiary.

The bill provides that, notwithstanding the provisions of secti 212(a)(23) of the Immigration and Nationality Act, the beneficia shall be granted immediate relative status under section 201(b) of t act. The bill should be amended to read: "That, notwithstanding t provisions of section 212(a)(23) of the Immigration and Nationali Act, Yaeko Howell may be issued an immigrant visa and admitted the United States for permanent residence, if she is found to be otherwise admissible under the provisions of that act: *Provided*, that t exemption shall apply only to a ground for exclusion of which t Department of State or Justice had knowledge prior to the enactme of this act".

The beneficiary, a native of Japan, is classifiable as an immedi relative as the wife of a U.S. citizen.

Sincerely,

Leonel J. Castillo,
Commissioner

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1843

The beneficiary, Yaeko Howell nee Kudo was born in Kumamoto, Japan; on October 10, 1928. and is a citizen of that country. She presently resides in Otu-Shi, Japan, and is not gainfully employed.

The beneficiary married M. Sgt. Kennard Howell, a citizen of the United States, on February 26, 1970, in Tokyo, Japan. No children have been born of this marriage. Her husband enlisted in the U.S. Air Force in May 1956 and is presently assigned to Kunsan Air Force Base, Republic of Korea, with base pay per month $996. The beneficiary and her spouse last resided together at C.F.B. Bagotville, Arvida, Quebec, Canada, from March 1973 until March 1977. The beneficiary's mother is presently residing in Japan and her father is deceased. She has a brother and a sister residing in Japan. The beneficiary completed high school in Japan in March 1945. The beneficiary and her husband report that they have personal property valued at $10,000.

The beneficiary was convicted on February 21, 1956, for violation of the Narcotic Control Law by the Hachioji Branch, Tokyo District, Tokyo, Japan. She was sentenced to 8 months forced labor with 20 days pretrial confinement to be included in the punishment. The sentence of punishment by imprisonment has subsequently lost its force in accordance with article 34–2 of the Penal Code of Japan. A copy of the conviction record is attached.

In 1974, the beneficiary was denied an immigrant visa at the American Consulate in Quebec City, Canada, due to the narcotic conviction in Japan in 1956. The beneficiary has made four entries into the United States as a nonimmigrant visitor. The first entry was on March 13, 1973, with departure on March 15, 1973; the second was in July 1975, with departure in the same month; the third entry was on July 2, 1976, with departure on July 6, 1976, and the last entry was on March 16, 1977, with departure on March 26, 1977.

The beneficiary's husband is anxious that his wife be issued an immigrant visa in order that they may reside together permanently in the United States.

CERTIFICATE

No. 332

Name in full: Kudo Yaeko.
Date of birth: October 10, 1928.
Sex: Female.
Nationality: Japanese.
Permanent address: No. 2915–1, Oaza Kume, Taraki-cho, Kuma-gun, Kumamoto-ken.
Present address: No. 2231–P–15, Fussa, Fussa-cho, Nishitama-gun, Tokyo-to.

The Japanese Police has the following record on the above mentioned person:

The above person was arrested by Fuchu Police on 21 December 1955 in violation of Narcotic Control Law. As a result the subject was tried and sentenced to imprisonment at forced labor for 8 months on February 21, 1956, by Hachioji Branch, Tokyo District Court.

However, the sentence to punishment by imprisonment has lost its force in accordance with article 34–2 of Penal Code of Japan.

SHIZUHIKO YAMAMOTO,
Chief of Police Security Section,
Metropolitan Police Department.

(Penal Code of Japan)

Article 34–2 (Extinction of Punishment) A sentence to punishment by imprisonment or graver penalty loses its force and effect upon the execution of the punishment, or when 10 years have elapsed following its imposition without the receipt of another sentence to a fine or graver penalty by a person whose execution of punishment has been remitted. The same shall apply when a punishment of detention or minor fine has been fully executed or when 5 years have elapsed following its imposition without the receipt of another fine or graver penalty by the person whose execution of punishment has been remitted.

When 2 years have elapsed after a decree remitting a punishment has become final and when within this period a fine or graver punishment has not been received, the decree whereby punishment was remitted loses its force and effect.

(Judgment)

Name: Yaeko Kudo.
Born: October 10, 1928.
Permanent domicile: 45 Takasago-cho, Omuta-shi, Fukuoka-ken.
Present address: 163 1–chome, Fujimi-cho, Tachikawa-shi, Tokyo-to.
Occupation: None.

With reference to the case of violation of Narcotic Control Law involving the above person this court has rendered the following judgment after the hearings in the presence of Prosecution Yoshio Sakagami:

The accused is sentenced to imprisonment at forced labor for 8 months. The number of days of pretrial confinement may be included in the punishment, 20 days. The narcotic drugs, 0.0329 gram, seized shall be confiscated.

Facts constituting a crime.—At approximately 8:25 p.m., December 21, 1955, the accused, without any justification to be exempted by law, possessed narcotic powder containing diacetyl-morphine, about 0.058 gram at her residence located at 163 1-chone, Fujimi-cho, Tachikawa-shi.

List of evidence.—1. Testimony of the accused before this court including her confession.

2. Warrant of search and seizure.

3. Written opinion by expert witness.

Application of law.—The acts of the accused come under article 12, paragraph 1 and article 64, paragraph 1 of Narcotic Control Law. In accordance with the above law the accused is sentenced to imprisonment at forced labor for 8 months. Pursuant to article 21 of Penal Code the number of days, 20 days, of pretrial confinement are included in the punishment. The narcotic drug, about 0.0329 gram, previously seized, shall be confiscated under article 68 of Narcotic Control Law.

February 21, 1956.

SHOJI SUZUKI,
Judge, Machioji Branch,
Tokyo District Court.

CERTIFICATE

Name: Yaeko Kudo.
Legal domicile: 615 Oaza Taraki, Taraki-machi, Kuma-gun, Kumamoto-ken.
Present address: 2231–1 Oaza Fussa- Fussa-shi, Tokyo-to.

This is to certify that there are no criminal records concerning the above described person.

June 10, 1972.

TAKASHI MIYAMOTO,
Head of Taraki Town Office,
Kuma-gun, Kumamoto-Ken.

REQUEST FOR CERTIFICATE

Request a certificate be issued, showing there are no criminal records concerning the undersigned.

Name: Yaeko Kudo (Haeko Howell).
Born: October 10, 1928.
Address: 2231, P–5, Fussa, Fussa-shi, Tokyo-to.

This is to certify that the above statement is true and correct.

June 5, 1972.

TSUNETARO ISHIKAWA,
Mayor of Fussa city, Tokyo-to.

A letter with attached memorandum, dated July 18, 1978, to the former Chairman of the Senate Committee on the Judiciary from the Assistant Secretary of State for Congressional Relations with reference to S. 1843 of the 95th Congress reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., July 18, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Yaeko Howell, beneficiary of S. 1843, 95th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the U.S. Consulate General at Quebec where the beneficiary's files were transferred by the Embassy at Tokyo, and in whose consular jurisdiction the beneficiary resided prior to her move to Korea.

This bill would provide for visa issuance and the beneficiary presumably currently resides, has reported that its attempts to contact her at the address furnished by the sponsor of the bill have been unsuccessful.

According to military sources the unit in which Sergeant Howell served was disbanded early this year. On March 24, Sergeant Howell left his forwarding address as "Williams Air Force Base, Arizona," and no longer resides in Korea. The present whereabouts of Yaeko Howell are unknown.

Sincerely,

Douglas J. Bennet, Jr.,
Assistant Secretary,
for Congressional Relations.

Enclosure.

MEMORANDUM OF INFORMATION CONCERNING S. 1843 FOR THE RELIEF OF YAEKO HOWELL, SUBMITTED BY THE AMERICAN EMBASSY AT QUEBEC, CANADA

The beneficiary, Yaeko Howell, maiden name Yaeko Kudo, was born on October 10, 1928, at Suigen-Mura, Kikuchigun, Kumamotoken, Japan, where she had continued to reside until the time of her immigrant visa application in September 1971. She is presently married to a U.S. citizen, Sergeant Kennard Howell and it is not known whether or not the beneficiary has any children.

When she applied for an immigrant visa, Mrs. Howell listed her mother and brother as her closest relatives in Japan. The beneficiary's father died in 1968.

Prior to her marriage, Mrs. Howell was employed as an office clerk, housemaid, waitress, and a dressmaking apprentice. Since her marriage, in 1970, she has been a housewife.

The Consulate General issued the beneficiary three tourist visas, one to visit her in-laws and the others to attend annual conventions, in New York and Honolulu, of the Nichiren Shoshu Academy, a worldwide Buddhist organization of which she has been a member since 1963.

She had also previously received a tourist visa from the U.S. Embassy at Tokyo to visit her in-laws in Detroit. All visits to the United States have been for period of 1 to 2 weeks.

The beneficiary is ineligible to receive a visa under section 212(a)(23) of the Immigration and Nationality Act because of her conviction on February 21, 1956, by the Hachioji Branch of the Tokyo District Court for illegal possession of 0.0588 gram of narcotic powder containing diacetylmorphine. She was sentenced to imprisonment at forced labor for 8 months.

Mrs. Howell is the beneficiary of an I–130 petition approved by the Immigration and Naturalization Service in Tokyo on March 26, 1970, according her immediate relative status as the spouse of a U.S. citizen.

> There are no other known grounds of ineligibility, although a medical examination in 1970 showed her to be afflicted with class B, pulmonary inactive tuberculosis. Another medical examination to verify that condition would be appropriate. The complete file relating to the beneficiary has been transferred to the U.S. Embassy at Seoul.

Senator Donald W. Riegle, Jr., the author of the bill, submitted the following letter, with enclosures, in support of his bill:

U.S. Senate,
Washington, D.C., March 15, 1979.

Re S. 404, for the relief of Yaeko Howell.

Dear Mr. Chairman: I am writing to you about Yaeko Howell, beneficiary of my private bill, S. 404. Mrs. Howell lives in Japan at 203-108 Rune Otu Niono Hama Otu-Shi Shiga-Ken. She is the wife of my constituent, M. Sgt. Kennard Howell, 365-38-0089, HDQ 82d Flying Training Wing (ATC), Williams Air Force Base, Ariz. 85224.

With this letter, I am submitting some of the same material sent when I introduced a bill for Mrs. Howell in the last session of Congress. As you can see from this material, Mrs. Howell, who has led an exemplary life for many years, will not be able to live with her husband in the United States, when he is discharged from the Air Force, due to her 1956 conviction for possession of 0.0329 gram of diacetyl-morphine.

I hope the committee will consider Mrs. Howell's plight and good moral character in relation to this one incident and favorably consider her bill so she and her husband may be together in the United States.

Thank you for your consideration of this matter.

Sincerely,

Donald W. Riegle, Jr.

M. Sgt. Kennard Howell, USAF, husband of the beneficiary, submitted the following letter, in support of the bill.

General Delivery,
Williams Air Force Base, Ariz., January 24, 1979.

Senator Riegle.

Dear Sir: In response to your letter on the immigration case, your file No. 2575, I am sending the following information for your use.

I have been separated from my wife from February 1970 to March 1973. From March 1973 to March 1977. We were together when I was stationed in Canada. From March 1977 to present time we have been separated. The only time during our separation that we have been together is when I was on leave in Japan.

I plan to stay in the service for three more years, at which time I will have to separate from the USAF because my maximum service time will be completed.

If my wife can't get her visa we will be getting a divorce because it is not logical for me and my wife to live in Japan because of the job opportunity for me, also the economy is to high to live properly.

When I do separate from the service we will get a home and we both will be getting jobs.

My wife's present address is: Mrs. Yaeko Howell, % Kenji Sugimura, 2-3-108 Rune-otsu, Niono-hama Otsu shi, Shiga-ken, Japan.

Thank you for your help.

Sincerely,

Kennard Howell,
Master Sergeant, U.S. Air Force.

Geoffrey T. Williams, Attorney at Law, Arlington, Va., submitted the following letter in support of the bill.

Newlon & Williams,
Arlington, Va., April 12, 1977.

Hon. Donald W. Riegle,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

Dear Senator Riegle: We are writing to you on behalf of M. Sgt. Kennard Howell, a U.S. citizen born in Detroit, Mich., and a domiciliary of Michigan who is presently stationed in Canada.

Master Sergeant Howell is an outstanding noncommissioned career officer in the Air Force, and the recipient of the Air Force Commendation Medal. He has been consistently recommended for early promotions, consistently rated at the very top of the evaluation scale, consistently recognized as a dedicated, selfless worker whose efforts not only carry out with distinction the responsibilities entrusted to him, but are shining examples for others. He has had approximately 21 years of service, and is considering retirement from the Armed Forces and return to his country.

Without your help, Master Sergeant Howell faces the unhapp choice between effective banishment from the United States or th breaking up of his happy marriage.

The problem stems from the inflexibility of section 212(a)(23) o the Immigration and Nationality Act, as amended, and the failure o the Congress to foresee and provide for any amelioration of its harshness, no matter what the circumstances, no matter how deserving th individual affected, no matter how devastating the impact on citize or resident alien members of his or her family.

We earnestly entreat you to introduce a private bill to make possibl the admission of Mrs. Kennard Howell (nee Yaeko Kudo) as a lawful permanent resident of the United States, and to permit her parol into the United States to await the outcome of such a bill.

The facts are these:

Master Sergeant Howell is married to Yaedo Kudo, a native an citizen of Japan, who lives with him in Canada. In February 197 Master Sergeant Howell submitted a petition for immediate relati status for his wife to the U.S. Consulate at Quebec, Canada. It w approved, and Mrs. Howell then made application for the issuance an immigrant visa. That, visa was denied her on the ground that s was ineligible under section 212(a)(23). As you know, there is official appeal from the denial of a visa by a Consular officer. Howeve there are informal avenues of review. All of these have been tried a exhausted, and the Chief of the Advisory Opinions Section of the Visa Office of the Department of State agrees with us that there is no possible administrative remedy available to Mrs. Howell.

The excludability stems from a conviction of Yaeko Kudo, on February 21, 1956, in the Tokyo District Court, for having been found on December 21, 1955, to be in unauthorized possession of 0.0329 gram of diacetyl-morphine. It is her sole and only brush with the law, on any level, either before or after that date. In fact under Japanese law this conviction has been expunged. Please note the enclosed record check made by the Royal Canadian Mounted Police.

While we know that a conviction, legal on its face, cannot be collaterally attached, we feel that a knowledge of the circumstances of that conviction would be helpful. Mrs. Howell is not, and has never been, a user, addict, or pusher of narcotics. She insists that her possession of this minute amount of morphine was not knowing. She states that at that time in Japan, there was widespread drug usage, and a determined effort by the authorities to crack down on it. It was not unknown for a person who had himself been caught violating the drug enforcement laws to implicate someone else (whether honestly or dishonestly) in order to show the authorities that he was being cooperative, and thereby to increase his own chances for more lenient treatment.

Mrs. Howell states that on December 21, 1955, a person she knew, who himself used narcotic drugs, called her and asked if he could come to see her. He came, and stayed only a few minutes. Within minutes after he left, the law enforcement authorities arrived with a search and seizure warrant, specifically directed at her, and on searching her home, found the miniscule amount of narcotic powder in her home. Inasmuch as she was not herself in any way involved with narcotics, or known to be so involved, such a warrant could not have been issued as a result of any investigation of her, but only on the basis of information given to the authorities specifically about her.

The mention in the conviction record, that she "confessed", is somewhat misleading—she pleaded guilty, since the material was in fact found in her home. She insists that she never brought it there or knowingly allowed it to be brought there, and believes it was secreted there by the person who visited her only minutes before the authorities arrived.

The case has about it many of the factors that were present in the *Lennon* case, including the language of the statute, which does not specify that possession must be knowing. We have attempted to convince the Consul, and the Visa Office, that it should come within the *Lennon* ruling, but that ruling is being very narrowly interpreted. We have made efforts to obtain from Japan the additional material that might bring the case within the scope of *Lennon*, but have been unsuccessful, because apparently there was not the same sort of concern in Japan as there was in England, nor the same sort of legislative discussions. We are including a copy of a handwritten letter from the Chief Judge of the Court, advising us that such briefs and material are not available.

In sum, Mrs. Yaeko Howell, because of that one conviction 21 years ago for possession of an infinitesimal amount of diacetyl-morphine in December, 1956, is forever excludable from the United States under the present immigration laws.

We can understand the concern of the Congress with narcotics use and traffic, but we cannot understand its rigid position with regard to persons who have not had any connection whatever with narcotics for many, many years especially if such persons have U.S. citizen or resident alien family.

Is Mrs. Howell, because of a 21-year-old conviction for possession of 0.0329 gram of diacetyl-morphine, more dangerous to our society than a convicted murderer or rapist? That murderer or rapist, if he has a resident alien or citizen spouse, parent or child, can be granted a waiver of excludability and issued an immigrant visa to enter the United States, within the specific provisions of the Immigration and Nationality Law.

Is she less desirable, less likely to make a good American, than someone who was a Communist for many years, but then turned against communism no more than 5 years ago? That former Communist, after only 5 years of disassociation from the party, provided he has publicly condemned it during that period, can be granted defector status and admitted to the United States for permanent residence, within the framework of the present statute.

But Mrs. Howell, almost a quarter of a century after conviction for possession of three-hundredths of a gram of diacetylmorphine, is still permanently excludable from this country. The law was not always this harsh. When Mrs. Howell was actually convicted, mere possession was not a ground for excludability (unless it was possession for the purpose of trafficing, and there is no allegation of that here); but in 1960 the Congress changed the law, to include mere possession, and its effect was retroactive.

We feel that the law, as it is now written and enforced, works a serious injustice and unwarranted hardship on Master Sergeant Howell and his wife, with no resultant benefit to the United States. There is clearly no administrative remedy, and there is no point to taking the matter into court, because the Courts have upheld the Congress right to set this very rigid standard for admissibility. (Cf the recent *Oliver* case in the Second Circuit in which the Court went on to criticize the irrationality of the results, but held itself powerless to review the judgment of the Congress.)

The only possible way to rectify this situation is by the introduction and passage of a private bill in Mrs. Howell's behalf. We earnestly entreat you to introduce such a bill. Master Sergeant Howell who has served his country long and exceptionally well, should not be forced to choose between his country and his wife. Mrs. Howell, whose only offense was committed more than 21 years ago, who paid the court exacted price for it, should not be made to wear it as an albatross for the rest of her life.

We are enclosing a fact sheet and informational material for your assistance.

We thank you most sincerely for your kind attention to this request.

Respectfully yours,

GEOFFRY T. WILLIAMS.

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS 82D FLYING TRAINING WING (ATC),
Williams Air Force Base, Ariz., Nov. 3, 1978.

Subject: Marriage Verification.

To Whom It May Concern:

This is to certify that our records indicate that M. Sgt. Kennard Howell, 365-38-0089, is presently married to Aaeko Kudo Howell and has been since Feb. 26, 1970.

JOHN T. TWIGG,
Staff Sergeant, U.S. Air Force,
NCOIC, Customer Service.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5, rule XXIX of the Standing Rules of the Senate, it is hereby stated that the committee anticipates that the bill will have no additional direct regulatory impact, inasmuch as it affects just one individual.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 404), as amended, should be enacted.

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Calendar No. 235

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96–217

STEVE WING-ON YAN

JUNE 14 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. KENNEDY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 276]

The Committee on the Judiciary, to which was referred the bill (S. 276) for the relief of Steve Wing-On Yan, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Steve Wing-On Yan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203 (a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202 (e) of such act.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Steve Wing-On Yan. The bill provides for payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 40-year-old native of Hong Kong and a citizen of the United Kingdom, who was admitted to the United States on an exchange visitor visa as a radiologic technologist in July 1971. He was employed by the O'Connor Hospital in San Jose, Calif., when he was recruited by the Hahnemann Medical College and Hospital of Philadelphia. The Hahnemann Center looked for 18 months for a radiologic technologist with beneficiary's qualifications, who is a qualified radiation therapy technologist in cancer research and treatment; has specialized skills in treatment planning, dosimetry accessory design and construction, supervoltage machines, and has certification for such complicated equipment as linear accelerators, beatatrons, cobalt reletherapy machines and cyclotrons. In addition to research, beneficiary is involved in instructing radiation therapy technologists and participates in the preparation of dosimetry for cancer patients receiving care at hospitals in the regional radiation therapy network.

Beneficiary has received valid approved labor certification and has had a valid approved sixth preference petition filed in his behalf by the Hahnemann Medical College and Hospital, and has been approved for issuance of a sixth preference visa; however, due to the unavailability of visa numbers for Hong Kong, he has been unable to receive permanent resident status.

Letters with attached memoranda, dated October 24, 1974, and December 7, 1977, respectively, to the former chairman of the Senate Judiciary Committee from the former Commissioner of Immigration and Naturalization and the present Commissioner of Immigration and Naturalization, with reference to S. 3963, 95th Congress, S. 375, 94th Congress, and S. 3963, 93d Congress, for the relief of the same beneficiary, which read as follows:

U.S. Department of Justice,
Immigration and Naturalization Service,
Washington, D.C., October 24, 1974.

A 18-266-803.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

Dear Senator: In response to your request for a report relative to the bill S. 3963 for the relief of Steve Wing-On Yan, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence status in the United States as of the date of enactment upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Hong Kong, is chargeable to the sixth preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere, and their dependent areas.

Sincerely,

L. F. Chapman,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 3963

The beneficiary, Steve Wing-On Yan, also known as Wing-On Yan, a native of Hong Kong and a citizen of the United Kingdom, was born on April 30, 1939. He attended school in his native country from 1947 to 1959, receiving the equivalent of a high school diploma. From 1963 to 1965 he received hospital training in Hong Kong as a Radiographer and was subsequently employed there in that field until 1971.

The beneficiary is single, and presently resides in Philadelphia, Pa. Since 1971 he has been employed at a local hospital as a radiologic dosimetrist supervisor at a wage of $13,000 per annum. Prior to this employment he worked as a chief technician at a San Jose, Calif., hospital. His assets in the United States consist of checking and savings accounts containing $4,500 and $2,000, respectively, clothing valued at $500, and other personal possessions valued at $400.

The beneficiary's father, mother, five brothers, and two sisters are all natives of Hong Kong and presently reside there.

The beneficiary was admitted to the United States on July 11, 1971, as a nonimmigrant exchange visitor and received extensions of his authorized stay until August 31, 1974. He was subsequently granted until October 15, 1974, within which to depart voluntarily from the United States. As he failed to depart by that date deportation proceedings have been instituted against him.

The beneficiary has an approved sixth preference visa petition as a radiologic dosimetrist with a priority date of February 12, 1974. However, an immigrant visa number is not available to the beneficiary under that classification at this time.

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., December 7, 1977.

A 18-266-803.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to S. 2129 in behalf of Steve Wing-On Yan, who was also the beneficiary of S. 375, 94th Congress, and S. 3963, 93d Congress.

The beneficiary was accorded a deportation hearing on November 6, 1974. At that time he was found deportable and granted the privilege of voluntary departure from the United States by December 6, 1974, with an alternate order of deportation if he failed to depart when required.

Private bill S. 375 was introduced in the beneficiary's behalf on January 27, 1975. In accordance with the Service's agreement with the chairman of the Senate Judiciary Committee, the beneficiary was permitted to remain in the United States during the pendency of the bill. The 94th Congress adjourned without having approved the bill.

The beneficiary married Evelyn Elizabeth Graham, a U.S. citizen, on December 18, 1976. A petition to classify the beneficiary as an alien relative in the issuance of an immigrant visa was submitted by the beneficiary's spouse on January 13, 1977. She withdrew this petition prior to its adjudication, on February 10, 1977, and the beneficiary was subsequently allowed to voluntarily depart the United States by September 23, 1977. As the beneficiary failed to depart, the alternate order of deportation was invoked on September 26, 1977.

The beneficiary continues to reside in Philadelphia, Pa., and to be employed as a radiologic dosimetrist, at a salary of $15,000 annually, and for which he has an approved sixth preference visa petition with a priority date of February 12, 1974. Sixth preference immigrant visa numbers alloted to Hong Kong are presently available for applicants with priority dates earlier than January 1, 1970.

A sister of the beneficiary now resides in the United States as a legal permanent resident, and will be eligible for naturalization on March 1, 1981.

Sincerely,

LEONEL J. CASTILLO, *Commissioner.*

Senator John Heinz, the author of the bill, submitted the following supporting information:

U.S. SENATE,
Washington, D.C., October 24, 1977.

Re S. 2129, for the relief of Steve Wing-On Yan.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, Subcommittee on Immigration and Naturalization, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to Mr. Steve Wing-On Yan, for whom I introduced private legislation, S. 2129, on September 22, 1977.

Steve Wing-On Yan is a citizen of Hong Kong who desires to become a permanent resident of the United States. He initially entered the United States in July 1971 on an exchange visitor visa, as a radiologic technologist. He was working at the O'Connor Hospital in San Jose, Calif. when he was recruited by the Hahnemann Medical College and Hospital of Philadelphia. The Hahnemann Center had sought for 18 months to employ a radiologic technologist with his qualifications. After a brief visit to Hong Kong in 1972, Mr. Yan reentered the United States in 1973 as a nonimmigrant exchange visitor. Since that time he has received a valid approved labor certification as a radiologic dosimetric technologist, and has had a valid approved sixth preference petition filed in his behalf by the Hahnemann Medical College and Hospital. Mr. Yan has fulfilled all legal and administrative requirements and has been approved for issuance of a sixth preference visa; however, due to the large number of sixth preference petitions pending from citizens of Hong Kong and the subsequent unavailability of visa numbers, Mr. Yan has been unable to receive permanent resident status.

In the 6 years that Steve Wing-On Yan has been affiliated with Hahnemann Medical College and Hospital, he has made an invaluable contribution to the treatment of more than 1,000 cancer patients who receive care at Hahnemann Center annually. He is not only a qualified radiation therapy technologist in cancer research and treatment, but has specialized skills in treatment planning, dosimetry accessory design and construction, super voltage machines, and has certification for such complicated equipment as linear accelerators, beatatrons, cobalt reletherapy machines and cyclotrons. In addition, to his own research and treatment activities at the Hahnemann Center, Mr. Yan is involved in the instruction of radiation therapy technologists and participates in the preparation of dosimetry for cancer patients receiving care at hospitals in the regional radiation therapy network.

Mr. Chairman, I feel very strongly that Mr. Yan's is truly a meritorious case. The loss of his work in cancer treatment and research would be sorely missed by those in the Philadelphia region. The attached letter written by Dr. Luther W. Brady, professor and chairman of the department of radiation therapy and nuclear medicine, Hahnemann Medical College and Hospital, will lend further support to Mr. Yan's case.

My bill, S. 2129, is the third which has been introduced for the relief of Steve Wing-On Yan. Mr. Chairman, I strongly urge you and the other members of the committee to act expediently and favorably on S. 2129 so that both the Senate and the House of Representatives may act on it during the current Congress.

Sincerely,

H. JOHN HEINZ III.

THE HAHNEMANN MEDICAL COLLEGE AND HOSPITAL,
Philadelphia, Pa., September 9, 1977.

Hon. H. JOHN HEINZ III,
Federal Building,
Philadelphia, Pa.

DEAR SENATOR HEINZ: I wish to support in most urgent and enthusiastic terms the request by Mr. Steve Wing-On Yan for your assistance in introducing and seeking passage of a private bill granting him permanent residency in the United States. Mr. Yan has been a member of the Department of Radiation Therapy and Nuclear Medicine at Hahnemann Medical College and Hospital for the past 6 years. During this time he has made major and significant contributions to the care of cancer patients. He is an experienced and highly skilled specialist in radiation therapy and we desperately need him to help us maintain the present level of service to our patients.

As I am certain you are aware, the National Cancer Act has brought forth a renewed commitment to increase the number of patients who are cured of cancer. Radiation therapy is one of the most effective means of cancer treatment, but a severe limiting factor is the continuing shortage of both physicians and technologists trained in the newest techniques.

At the present time, there is an extreme shortage of radiation therapy technologists in the United States. A recent report entitled

"Radiation Therapy Technology—Manpower Needs, Problems, Potential—1976," written by C. Jules Rominger, M.D., associate professor of radiation therapy, Jefferson Medical College of Thomas Jefferson University, indicates that as of 1975 there was a shortage of over 750 radiation therapy technologists in the United States and that the shortage was likely to increase substantially as an additional 825 positions for radiation therapy technologists became available by 1978. Mr. Yan is one of the select individuals who possesses the training and ability to perform radiation therapy work. He has been a meticulous worker for us and has demonstrated superb ability in applying physical principles to clinical work.

As a major radiation therapy center, this department initiates recruitment efforts for such positions with a thorough search of the lists of "radiologic technologists" registered with state-sponsored agencies. We also endeavor to attract the most promising graduates of American radiation therapy technology schools (of which there are only a few). Competition among radiation therapy centers curtails success in recruitment; in the case of Mr. Yan, the position was advertised 18 months before we received his application.

During 1970, we were in desperate need of an individual with administrative capabilities who also possessed a thorough understanding of radiation therapy treatment planning, dosimetry accessory design and construction, and appropriate experience in operation of super voltage machines. To secure such an individual, we advertised in local newspapers, national journals relating to radiation therapy, and other publications for more than nine months. We received no applicants. We then advertised in the appropriate international journals, but were unsuccessful. We were fortunate in finally being able to convince Mr. Yan to join our staff and he has since come to play a vital role in our treatment program. His loss would be a serious blow to our efforts.

During the past decade, the efficacy of radiation therapy and cancer treatment has come to be widely recognized. All major medical centers and many community hospitals have installed cobalt 60 units, linear accelerators, and other complex treatment equipment. The demand for treatment personnel at all levels—from physicians to medical physicists and technical personnel—has grown much more quickly than the supply could possibly be satisfied. To help meet the demand, our department has for a number of years conducted an extensive training program in radiation therapy for physicians as well as technicians. Mr. Yan is one of the staff members closely involved in supervising this training program.

Many community hospitals, in an effort to staff new radiation therapy units, have turned to technicians trained in diagnostic X-ray machines. Such technicians require less academic and practical training and need not possess the more sophisticated ability of a radiation therapy technologist such as Mr. Yan. With considerable on the job training, such personnel can begin to operate radiation therapy equipment, but the far more complicated task of determining the precise radiation dosage and the best means for delivery of the dosage must be carried on by radiological dosimetrists elsewhere. One of the unique contributions of the department at Hahnemann has been the establishment of a regional radiation therapy network linking more than score of institutions in this area which provide radiation therapy reatments, but lack a staff dosimetrist. Utilizing computer terminals nd Xerox telecopiers, the Department at Hahnemann provides dosim- try calculations for hospitals in the network. This centralized ooperative arrangement helps reduce the cost of medical care for pa- ients receiving treatment and also enables member hospitals to supply greater degree of care to their patients. Mr. Yan devotes a major ortion of his time to calculating dosimetry for these institutions. His ss would be a substantial blow to the program.

Mr. Yan has been of significant help to us in establishing our new ould laboratory and our well-organized radiation therapy treatment lanning unit. He combines administration capabilities with a thor- ugh understanding of radiation therapy treatment planning dosim- ry accessory design and construction, and appropriate experience in eration of super voltage machines. He has demonstrated excep- onal ability in the field of radiation therapy technology and has en a great asset in supervising the patients' treatment programs.

In summary, Mr. Yan's duties include: (1) Dosimetry calculations d related treatment planning for about 1,000 new patients annually Hahnemann; (2) supervision of a mould room for fabrication of am blocks and other treatment aids; (3) preparation of dosimetry r patients receiving treatment at hospitals in the regional radiation erapy network; (4) participation in the instruction program for rsonnel in the radiation therapy technology course.

We strongly believe that Mr. Yan's excellent contributions to the ld of cancer care warrant granting him permanent residency in United States. We at Hahnemann have already expended time suming efforts to convince the U.S. Department of Labor and the migration and Naturalization Service to grant Mr. Yan approval remain in the United States on a permanent basis. Mr. Yan has been tified by the Department of Labor as a vitally needed skilled em- yee, but we have been advised that no visas are available at the rent time and that, in all likelihood, no visas will be available in foreseeable future, since Mr. Yan is a British citizen from Hong ng. It is our understanding that Mr. Yan is faced with the threat t he will be compelled to leave the United States because of a lack mmigration approval. We consider this a very serious matter and erely urge that you help us in securing approval for him to re- n with us in the United States.

lease let me know if I can be of any further assistance.

Yours sincerely,

LUTHER W. BRADY, M.D.,
Professor and Chairman.

REGULATORY IMPACT STATEMENT

compliance with paragraph 5, rule XXIX of the Standing Rules e Senate, it is hereby stated that the committee anticipates that ill will have no additional direct regulatory impact, inasmuch as ects just one individual.

e committee, after consideration of all the facts in the case, is of pinion that the bill (S. 276), as amended, should be enacted.

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Calendar No. 236

96th Congress }
1st Session }

SENATE

{ Report
{ No. 96–218

LEAH MI COHEN

June 14 (legislative day, May 21), 1979.—Ordered to be printed

Mr. Kennedy, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 275]

The Committee on the Judiciary, to which was referred the bill (S. 275) for the relief of Mr. and Mrs. Edward Cohen and their adopted daughter, Leah Mi Cohen, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

AMENDMENTS

1. Strike all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Leah Mi Cohen may be classified as a child within the meaning of section 101(b)(1)(E) of such act, upon approval of a petition filed in her behalf by Mr. and Mrs. Edward Cohen, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

2. Amend the title of the bill to read:

A bill for the relief of Leah Mi Cohen.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States of the adopted child of U.S. citizens. The bill has been amended to remove the names of the adoptive parents from the title of the bill.

STATEMENT OF FACTS

The beneficiary of the bill is a 19-year-old native and citizen of Korea, who was admitted to the United States on December 28, 1972, in the home of Mr. and Mrs. Edward Cohen, by whom she was adopted on August 27, 1975. The beneficiary's father is a U.S. citizen but his whereabouts are unknown. The adoptive parents are citizens of the United States born on July 4, 1926, and April 23, 1932, respectively. The adoptive father is employed by a drug corporation and currently holds the position of secretary-treasurer. The adoptive mother is not employed outside of the home. They are the parents of one biological daughter and four adopted children who live with them.

A letter with attached memorandum, dated September 27, 1978, to the former chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to S. 3208, which was a similar bill introduced in the 95th Congress for the relief of the same beneficiary, reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 27, 1978.

A 21-677-420.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 3208) for the relief of Lea Mi Cohen, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary, age 19, who has been adopted by U.S. citizens, may be classified as a child and granted immediate relative status upon approval of a petition filed in her behalf by Mr. and Mrs. Edward Cohen. It further provides that the natural parents, brothers, or sisters of the beneficiary, shall not, by virtue of such relationship, be accorded any immigration benefits. The bill further provides that the provision of the Immigration and Nationality Act, which limits the number of petitions that may be approved for adopted children, shall not be applicable in this case.

Absent enactment of the bill, the beneficiary, a native and citizen of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION FILES RE S. 3208

The beneficiary, Leah Mi Cohen, who has also been known as Mi Kyong Jung, was born in Korea on August 6, 1959. From birth until 1972 she resided in Seoul, Korea, with her mother and an aunt. The identity and whereabouts of her U.S. citizen father are unknown. The beneficiary completed 6 years of elementary education in her native country. She was supported in part by the Pearl Buck Foundation, and came to the attention of the interested parties through a local adoption agency and a Korean social service agency. The beneficiary was admitted to the United States as a nonimmigrant visitor for pleasure on December 28, 1972, destined to the residence of the interested parties. Her classification was changed to that of a nonimmigrant student on October 13, 1973, and her stay in the United States has been extended to September 14, 1978. The beneficiary was awarded a high school diploma in June 1978, and has been accepted for the fall semester at a local community college. Mr. and Mrs. Edward Cohen adopted the beneficiary under the laws of the Commonwealth of Pennsylvania on August 27, 1975.

The adoptive parents, Edward Cohen and Alberta Cohen, are citizens of the United States, born on July 4, 1926, and April 23, 1932, respectively. They were married on November 21, 1954, in New York, N.Y. After being awarded a high school diploma in 1944, Mr. Cohen enlisted in the U.S. Army and was honorably discharged in 1946. He subsequently received a bachelor of science degree in 1950 from Temple University, Philadelphia, Pa. Since that time he has been employed by a drug corporation and currently holds the position of secretary-treasurer.

Mrs. Cohen, whose family name was also Cohen, completed high school in 1949 and was subsequently awarded an associate degree in applied science by New York City Community College in 1951. From 1951 to 1954 she was employed by an advertising agency as an assistant art director. Mrs. Cohen has not been employed since her marriage. The combined assets of the interested parties are $20,000 income per annum; checking and savings accounts containing $200 and $3,000 respectively; stocks and bonds with a total value of $3,000; an automobile valued at $50; and other personal property valued at $10,000. Their home is valued at $100,000, and there is additional yearly income of $2,500 from rental property valued at $60,000.

Residing with Mr. and Mrs. Cohen, in addition to the beneficiary, are their biologic daughter, and four adopted children. Two adopted Korean orphans were beneficiaries of approved visa petitions submitted by Mr. and Mrs. Cohen to accord the children immediate relative status. One Korean orphan and one Vietnam orphan were petitioned for by other individuals, and because of circumstances, were placed in the Cohen's home. Their four adopted children are naturalized citizens of the United States.

Mr. Cohen is currently the president of Love the Children Adoption Agency, Quakertown, Pa., and past president of the Welcome House Adoptive Parents Group. Mrs. Cohen is a past president and presently a vice president of this latter group, and additionally is currently the director of Parents in Caring (a part of Welcome House) and vice president and director of Love the Children Adoption Agency. Mrs. Cohen has made 20 trips to Japan and Korea performing escort duty for orphans coming to the United States.

A copy of the beneficiary's adoption decree is attached.

Senator John Heinz, the author of the bill, submitted the following supporting information:

U.S. SENATE,
Washington, D.C., March 7, 1979.

Re. S. 275, for the relief of Leah Mi Cohen.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR: I am writing with reference to the private immigration bill, S. 275, which I have introduced in the 96th Congress for the relief of Mr. and Mrs. Edward Cohen and their adopted daughter, Leah Mi Cohen. This bill was submitted in the 96th Congress as S. 3208 on June 19, 1978.

Leah Mi Cohen, who is almost 20 years of age and has lived in this country since the age of 13, is seeking to become an American citizen and to be accorded the rights of that status.

According to information I received from the Immigration and Naturalization Service, the passage of this private bill is the only means by which Leah Mi Cohen can become an American citizen.

The Cohens filed a relative petition after adopting Leah in the United States. The problem with this avenue is that the child must have been adopted while under the age of 14 to qualify as the beneficiary of a relative petition. Since Leah was born on August 6, 1959, and was not legally adopted until August 27, 1975, she was over the maximum age at the time of adoption and therefore could not qualify as the beneficiary of a relative petition.

The only other alternative would be to apply as a nonpreference immigrant. However, nonpreference visa numbers for Korea are currently available only for those who filed on or before May 1, 1974, meaning that a person filing today for a Korean nonpreference visa number would have nearly a 4-year wait before a number becomes available. Furthermore, once a number becomes available, the person then faces the problem of acquiring certification from the Department of Labor that no citizen or permanent resident of the United States is available to fill the job that the prospective immigrant intends to perform while living in the United States. The unavailability of visa numbers and the labor certification requirement, therefore, virtually eliminate the nonpreference avenue from consideration.

Leah Mi Cohen and her adopted family are understandably disturbed by this situation which results in her receiving a deportation notice every year. She is a fine student and an active member of her community, and I sincerely feel that this private bill which would grant her American citizenship is meritorious.

Sincerely,

JOHN HEINZ,
U.S. Senate.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5, rule XXIX of the Standing Rules of the Senate, it is hereby stated that the committee anticipates that the bill will have no additional direct regulatory impact, inasmuch as it affects just one individual.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 275), as amended, should be enacted.

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Calendar No. 237

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–219

LOURIE ANN EDER

JUNE 14 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. KENNEDY, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 229]

The Committee on the Judiciary, to which was referred the bill (S. 229) for the relief of Inocencio Eder and Lourie Ann Eder, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill as amended do pass.

AMENDMENTS

1. Strike all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Lourie Ann Eder may be classified as a child within the meaning of section 101(b)(1)(E) of such act, upon approval of a petition filed in her behalf by Federico P. Eder and Irinea R. Eder, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any rights, privilege, or status under the Immigration and Nationality Act.

2. Amend the title of the bill to read:

A bill for the relief of Lourie Ann Eder.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission nto the United States of the adopted child of a lawful permanent esident and a U.S. citizen. The bill has been amended to remove the ame of the male beneficiary inasmuch as an administrative remedy is vailable to him.

39–007

STATEMENT OF FACTS

The beneficiary of the bill is an 18-year-old native and citizen of the Philippines who currently resides in that country with relatives of her adoptive mother. The beneficiary was adopted in the Philippines on May 9, 1973, by Mr. and Mrs. Federico P. Eder. Mr. Eder is a retired laborer, his wife is not employed. They have no natural children. The bill, as introduced, provided also for the relief of Inocencio Eder, the adopted son of Mr. and Mrs. Eder. However, an immigrant visa is available to Inocencio's father and it appears the child will be able to immigrate with him.

A letter, with attached memorandum, dated August 1, 1977, to the former chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to S. 769, as amended, which was a similar bill introduced in the 95th Congress for the relief of the same beneficiaries, reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 1, 1977.

A21267916.
A21268079.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 769) for the relief of Inocencio Eder and Lourie Ann Eder, there is attached a memorandum of information concerning the beneficiaries.

The bill provides that the 12- and 16-year-old beneficiaries may be classified as children and be granted immediate relative status upon approval of a petition filed on their behalf by Irinea R. Eder, a citizen of the United States.

Absent enactment of the bill, the beneficiaries, natives of the Philippines, are chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 769

Information in this case was furnished by Mr. Federico P. Eder and Mrs. Irinea R. Eder, the adoptive parents of the beneficiaries.

The beneficiaries, whose names have been fixed by decree of adoption as Inocencio Eder and Lourie Ann Eder, are natives and citizens of the Philippines. They were born on

October 24, 1964, and October 4, 1960, respectively. On May 9, 1973 they were adopted through the Municipal Court of Bacarra, Ilocos Norte, Philippines, by Mr. Federico P. Eder and Mrs. Irinea R. Eder, a lawful permanent resident of the United States and a citizen of the United States, respectively. The beneficiaries' natural parents consented to the adoption for economic reasons. The beneficiaries have never been to the United States. Since adoption they have resided in Bacarra with relatives of their adoptive mother. They are dependent for support on their adoptive parents who furnish $200 per month for their living expenses. Mr. and Mrs. Eder have also established savings for the beneficiaries in the Philippines amounting to $2,400.

Prior to his adoption, beneficiary Inocencio Eder was known as Inocencio Eder, Jr. His natural father is a nephew of his adoptive father. He is in the sixth grade in school. His natural parents, one brother, and two sisters reside in Bacarra apart from him. Prior to her adoption, beneficiary Lourie Ann Eder was known as Lourie Ann Corazon Dacuycuy. Her natural father is a nephew of her adoptive mother. She is in the 10th grade in school. Her natural parents, three brothers, and two sisters reside in Bacarra apart from her.

The beneficiaries' adoptive father, Mr. Federico Pedro Eder, is a native and citizen of the Philippines born on February 22, 1910. He completed 2 years of school. He arrived in the United States in 1929 as an agricultural worker and has resided in Hawaii since that time. He was accorded status as a lawful permanent resident on January 9, 1967. He was employed as a laborer until his retirement in 1975. He receives $409 per month from social security and retirement benefits. The beneficiaries' adoptive mother, Mrs. Irinea Reyes Eder nee Reyes, is a native of the Philippines born on October 19, 1920. She completed 6 years of school. She was admitted to the United States for permanent residence on January 2, 1966 and she became a U.S. citizen through naturalization on September 17, 1973. She is unemployed and devotes full time to household duties. She receives $117 per month from social security benefits and an insurance annuity. Mr. and Mrs. Eder were married on January 16, 1949. This was the only marriage for both. No children were born of their union because Mrs. Eder is physically incapable of bearing offspring. Mr. and Mrs. Eder stated that they are in good health. They reside alone in a three-bedroom home in Waialua, Hawaii. Their assets include full title to their home valued at $60,000, real estate in the Philippines valued at $10,000, and savings of $44,000.

Mr. Eder has never seen the beneficiaries. He was unable to travel to the Philippines to attend the adoption proceedings because of illness. He was accorded status as an adoptive parent by the court because he had granted power of attorney to his wife, who was present at the proceedings. Prior to the adoption, Mrs. Eder had lived with beneficiary Lourie Ann

Eder and her natural parents for approximately 4 years. After the adoption, Mrs. Eder resided with both beneficiaries for a period of 8 months, between November 1974 and July 1975, and for a period of 5 months, between January 1976 and July 1976.

The beneficiaries do not qualify for status as children as defined in section 101(b)(1)(E) of the Immigration and Nationality Act because they have not been in the legal custody of, and resided with, their adopting parent or parents for at least 2 years. For this reason, petitions submitted by Mr. Eder at Honolulu, Hawaii on June 30, 1976, to accord the beneficiaries second preference classification for the issuance of an immigrant visa, were denied by the District Director on September 3, 1976.

Should the beneficiaries be admitted to the United States, they will reside with their adoptive parents in Hawaii. Mr. and Mrs. Eder do not contemplate adopting the beneficiaries in Hawaii since the laws of that State provide that a child lawfully adopted under the laws of any nation shall be accorded the same rights and benefits in all respects as a child legally adopted in Hawaii.

A report from the Department of State dated October 26, 1977 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 26, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning Inocenio Eder and Lourie Ann Eder, beneficiaries of S. 769, 95th Congress, enclosed is a memorandum of information prepared by the American Embassy at Manila, Philippines, in whose consular jurisdiction the beneficiaries reside.

The bill would grant the beneficiaries immediate relative immigrant status, upon approval of petitions filed in their behalf by Irinea R. Eder, a U.S. citizen. It further provides that no natural parent, brother, sister, or prior adoptive parent shall be accorded any right under the Immigration and Nationality Act by virtue of such relationship.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum of information.

MEMORANDUM OF INFORMATION CONCERNING S. 769 95TH CONGRESS, FOR THE RELIEF OF INOCENCIO EDER AND LOURIE ANN EDER

(Submitted by the American Embassy at
Manila, Philippines)

Inocencio Eder was born on October 24, 1964, at Bacarra, Ilocos Norte. His parents are Inocencio Eder, Sr. and Maria

Dacuycuy. The Eders have the following children; Emmanual, 15; Inocencio, 12; Imelda, 11; and Mariesen, 2. Inocencio lives with his natural parents at Barrio No. 12 Bacarra. He is a first year high school student at Bacarra National Comprehensive High School.

Lourie Ann Dacuycuy was born on November 4, 1960, at Bacarra, Ilocos Norte. Her parents are Alfonso Dacuycuy and Nelida Guerroro. The Dacuycuys have the following children: Belen 18; Lourie Ann, 16; Rodrigo, 15; Raymundo, 13; Romelia, 9; and Gerry, 3. Lourie Ann resides with Mrs. Avelina Vea, cousin of her parents, at Barrio No. 16, Bacarra, while parents reside at Barrio No. 14. Lourie Ann is a first year high school student at the Northern Christian College in Laoag City.

Inocencio and Lourie Ann receive about $200 a month support from their adoptive parents, Federico and Irinea Eder of Hawaii. Inocencio has one uncle and four aunts in Hawaii. His father, Inocencio Eder, Sr., is registered under the fifth preference waiting list with a registration priority date of March 12, 1968. Federico Eder is the uncle of Inocencio Eder, Sr. Mrs. Irinea Eder is the great aunt of Lourie Ann. Inocencio, Jr., and Lourie Ann are first cousins as Alfonso Dacuycuy, Lourie Ann's father and Maria Dacuycuy Eder, Inocencio, Jr.'s, mother, are brother and sister. According to Inocencio Eder, Sr., Mrs. Eder acquired custody of Inocencio and Lourie Ann in 1964 but legal adoption took place only last May 9, 1973. Three copies of the adoption decree are attached. Mrs. Eder immigrated to the United States in 1966, and her husband has been living in Hawaii for about 48 years.

Lourie Ann is not registered for immigration but would be chargeable to the heavily oversubscribed nonpreference waiting list if she were able to meet the labor certification requirement of section 212(a)(14). Inocencio Eder would be legally entitled to accompany his natural father to the United States as a derivative fifth preference immigrant, notwithstanding his adoptive status. Visa numbers are presently available for Philippine born fifth preference applicants with priority dates earlier than November 1, 1967. It is expected that his father's priority date will be reached in the not too distant future.

A medical examination conducted by a member of the Embassy's panel of physicians showed no defect, disease or disability for either beneficiary. Outside security checks were not made because of the beneficiaries' ages.

Enclosures: As stated.

Copies of the adoption decree referred to above are contained in the les of the Senate Judiciary Committee.

A supplemental report from the Department of State dated January 9, 1978 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., January 9, 1978.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate.

DEAR MR. CHAIRMAN: I further refer to your request for a report concerning the case of Inocencio Eder and Lourie Ann Eder, beneficiaries of S. 769, 95th Congress, and my letter of October 26, 1977.

The U.S. Embassy at Manila has reported that Mr. Inocencio Eder, Sr., the father of Inocencio Eder, is registered as a fifth preference immigrant with a priority date of March 12, 1968, and that since he and all the members of his family have obtained the supporting documents necessary for formal visa application, they have been given an appointment for the month of February.

It would appear, on the basis of these developments, that Inocencio, who has received no immigration rights through his adoptive parents and is not now in a position to receive such benefits, would be entitled to derivative fifth preference status and accordingly be able to immigrate with his natural father.

Sincerely,

ROBERT G. BECKEL,
Acting Assistant Secretary
for Congressional Relations.

Senator Spark Matsunaga, the author of the bill, submitted the following supporting information:

U.S. SENATE,
Washington, D.C., August 12, 1977.

Re S. 769, for the relief of Inocencio and Lourie Ann Eder.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for this opportunity to express my support for the above-captioned measure, which would waive the 2-year legal custody requirement and permit Inocencio and Lourie Ann to join their adoptive parents in Hawaii.

Since their marriage in January 1949, Mr. and Mrs. Eder have attempted to have children of their own, but without any success. The idea of adopting their niece and nephew came to mind so that they would have a family for whom they could provide a loving, comfortable home and a good education, and to whom they could pass on the results of a long and productive life.

Mrs. Eder lived with Lourie Ann for 4 years prior to her adoption. After the adoption, she lived with both children for two separate periods of time, for a total of 13 months. She is unable to fulfill the remaining portion of the legal custody requirement due to her obligations to her household and her husband.

Although both Mr. and Mrs. Eder are retired and live on a fixed income, they own their home, which is valued at $60,000, and have accumulated substantial savings in the amount of $44,000, as well as property in the Philippines valued at $10,000. With these assets, they can assure their children a good home and education until they reach adulthood and are able to support themselves.

Inocencio and Lourie Ann were adopted over 4 years ago and are now 12 and 16 years old, respectively. The Eders are most anxious to have their children join them in Hawaii as soon as possible, particularly in order that they may receive the benefits of an American education. They have expressed a great deal of concern over the delay they have experienced in this regard, and I therefore respectfully urge your early, favorable action on S. 769.

Aloha and best wishes.

Sincerely,

SPARK MATSUNAGA,
U.S. Senator.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5, rule XXIX of the Standing Rules of the Senate, it is hereby stated that the committee anticipates that the bill will have no additional direct regulatory impact, inasmuch as it affects just one individual.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 229), as amended, should be enacted.

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Calendar No. 238

96th Congress } **SENATE** { **Report**
1st Session } { **No. 96–220**

AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR INQUIRIES AND INVESTIGATIONS

June 14 (legislative day, May 21), 1979.—Ordered to be printed

Mr. Pell, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 171]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 171) authorizing supplemental expenditures by the Committee on Environment and Public Works for inquiries and investigations, having considered the same, reports favorably thereon with an amendment and recommends that the resolution as amended be agreed to.

Senate Resolution 171 as referred would amend the annual expenditure-authorization resolution of the Committee on Environment and Public Works (S. Res. 43, agreed to Mar. 7, 1979) by increasing by $401,700—from $1,386,200 to $1,787,900—funds available to the committee for inquiries and investigations through February 29, 1980. Of the $401,700 increase, $150,000 could be expended for the procurement of consultants, increasing funds available for that purpose from $17,000 to $167,000.

An explanation for the committee's request of additional funds is contained in its report to accompany Senate Resolution 171 (S. Rept. 96–194), an excerpt of which is as follows:

> The additional funds would be applied to a special investigation into the accident at the Three Mile Island Nuclear Power Station and a study of related issues involving Federal regulation and control of civilian atomic energy. The investigation and study would be conducted by the committee

> through its Subcommittee on Nuclear Regulation. The investigation and study are expected to be completed within 1 year. * * * Because the accident took place after approval of Senate Resolution 43, it is necessary to authorize supplemental expenditures by the Committee on Environment and Public Works for the specific investigation and study of the accident.

In compliance with the request of the Committee on Environment and Public Works, the Committee on Rules and Administration has amended Senate Resolution 171 by increasing from $150,000 to $200,000 the portion of the current request ($401,700) which could be expended for the procurement of consultants. No increase in the current request for funds would result from this action. The amount which could be expended for the procurement of consultants in Senate Resolution 43 would be increased from $17,000 to $217,000.

A joint letter in support of Senate Resolution 171 addressed t Senator Claiborne Pell, chairman of the Committee on Rules and Administration, by Senator Jennings Randolph and Senator Robert T. Stafford, chairman and ranking minority member, respectively, o the Committee on Environment and Public Works, and Senator Gary Hart and Senator Alan K. Simpson, chairman and ranking minorit member, respectively, of the Subcommittee on Nuclear Regulation is as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUPLIC WORKS,
Washington, D.C., May 31, 1979.

Hon. CLAIBORNE PELL,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On May 24, 1979 the Committee on Enviror ment and Public Works reported Senate Resolution 171 whic authorizes supplemental expenditures to carry out an investigatic and study of the recent accident at the Three Mile Island Nucle Power Station.

As described in detail in the report (96–194) accompanying t resolution, this, the most serious accident in the history of the civili nuclear energy program, raises urgent questions about the adequa of Federal regulation and control of civilian atomic energy. T Subcommittee on Nuclear Regulation has already addressed itself the need for this investigation. Preliminary planning, including o site investigations, is underway. Hearings have confirmed the urge need for immediate attention to this problem.

Answers will be sought to four major questions in the course of t investigation: (1) How did the accident happen; (2) Were th early warning signs; (3) What was the Nuclear Regulatory Co mission's response; and (4) Was the State and local emergen response planning adequate? Based on these responses, the commit will propose administrative changes and amendments to existi statutes to prevent the occurrence of similar events in the future.

The study will encompass five principal areas: (1) The adequacy Federal nuclear power plant regulation; (2) NRC crisis manageme (3) Capabilities and responsibilities of utilities; (4) State emerge planning; and (5) Repair or decommissioning of damaged nuclear power plants. Each study is expected to develop administrative reform proposals, and remedial legislation, as needed.

Your early consideration and approval of this resolution will permit plans now under way to be implemented without delay.

With kindest personal regards, we are

Truly,

Jennings Randolph,
Chairman.
Robert T. Stafford,
Ranking Minority Member.
Gary Hart,
Chairman, Subcommittee on Nuclear Regulation.
Alan K. Simpson,
Ranking Minority Member, Subcommittee on Nuclear Regulation.

At the requests of Senators Hatfield and DeConcini, the Committee on Environment and Public Works submitted the following additional information:

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C., June 7, 1979.

Hon. Claiborne Pell,
Chairman, Committee on Rules,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: At your hearing on June 6 on Senate Resolution 171, authorizing additional funds for the Committee on Environment and Public Works investigation of the accident at the Three Mile Island Nuclear Power Station, Senators Hatfield and DeConcini requested additional information.

Senator Hatfield asked for an itemization of the projected expenses of this effort. A detailed budget is enclosed.

The estimate for consultant expenses in this budget is $200,000. This differs from the figure of $150,000 for this purpose included in Senate Resolution 171 as reported by the Committee on Environment and Public Works. As Senator Hart, the subcommittee chairman, testified, more recent and refined staff projections have concluded this larger figure is more desirable. We therefore request the Rules Committee to increase the figure for consultant expenses in Senate Resolution 171 to $200,000 for a total of $217,000 in Senate Resolution 43; this action entails no increase in the overall figure of $401,700 for investigation expenses. This request is based on a desire to avoid hiring an unduly large investigation staff, and the attendant space requirements.

Finally, Senator DeConcini inquired as to arrangements to avoid duplication of effort and to utilize existing research resources. As indicated on pages 2 and 5 of the committee report on Senate Resolution 171, every effort is being made to avoid unnecessary duplication of the efforts of other investigations of the Three Mile Island accident and to utilize the resources of the General Accounting Office and the Congressional Research Service.

At our request, the Nuclear Regulatory Commission has established a document room to retain all of its materials that have a major bearing on the Three Mile Island accident. Pursuant to arrangements made with the investigations by the Senate, the House of Representatives and the Presidential Commission, each group will have access to these materials to avoid unnecessary duplication of documents. Further, the transcripts of hearings and interviews conducted by each investigation will be placed in the room for the use of the other inquiries. These arrangements, we believe, will serve to avoid unnecessary duplication and overlap, consistent with the independence of each investigation.

I hope this additional information is satisfactory. We will provide any other data or explanation of the investigation you may require.

With best regards,

Truly,

JENNINGS RANDOLPH,
Chairman.
ROBERT T. STAFFORD,
Ranking Minority Member.
GARY HART,
Chairman, Subcommittee on Nuclear Regulation.
ALAN SIMPSON,
Ranking Minority Member,
Subcommittee on Nuclear Regulation.

BUDGET

S. Res. 171.
Committee: Environment and Public Works.
Total amount requested ---- $401, 700. 0

Position	Number	Annual salary	Monthly salary	Total to period o budg
Investigative staff:				
Legal and investigative:				
Investigator	2	$24, 192. 00	$2, 016. 00	$34, 272.
Professional staff member	3	30, 051. 00	2, 504. 25	63, 858.
Editorial and research:				
Research assistant	2	16, 065. 00	1, 338. 75	22, 759.
Do	2	11, 151. 00	929. 25	15, 757.
Administrative and clerical:				
Clerical assistant	1	15, 120. 00	1, 260. 00	10, 710.
Do	2	12, 474. 00	1, 039. 50	17, 671.
Total investigative staff	12			165, 067.
Consultants				200, 000.
Training of professional staff				
Cost-of-living salary increase (when applicable)				
Administrative expenses:				
Agency contribution to:				
Employees health benefit programs ($59.62 [1] per month per employee)				6, 08
Civil service retirement fund (7½ percent of total salaries paid)				12, 3
Federal employees group life insurance (27.7 cents per month per $1,000 coverage)				420
Travel (inclusive of field investigations)				10, 000
Hearings (inclusive of reporters' fees)				7, 000
Witness fees, expenses				750
Total administrative expenses				36, 632

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[1] Maximum agency contribution that would be incurred for any employee.

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–221

REPORT OF THE COMMITTEE ON RULES AND ADMINISTRATION PURSUANT TO SECTION 302(B) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 14 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. PELL, from the Committee on Rules and Administration, submitted the following

REPORT

This report sets forth the allocations among programs under the direct spending jurisdiction of the Committee on Rules and Administration of functional amounts allocated to the committee in the joint explanatory statement which accompanied the conference report on the first concurrent resolution on the budget for fiscal year 1980, House Concurrent Resolution 107.

The information is set forth in the following table. There are no entitlement accounts under the jurisdiction of the Committee on Rules and Administration which are funded through annual appropriations acts. All accounts in the table are classified by the Office of Management and Budget as "relatively uncontrollable," as defined in the Budget of the United States Government, 1980, page 327. The two proposed programs in function 800 would be appropriately classified as "relatively uncontrollable" also.

COMMITTEE ON RULES AND ADMINISTRATION—ALLOCATIONS PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974, 1ST CONCURRENT RESOLUTION FOR FISCAL YEAR 1980

[In millions of dollars]

Programs	Estimates in Mar. 15 report		Sec. 302(b) allocations		Allocations minus estimates	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
FUNCTION 250						
Smithsonian Institution trust funds (32-50-9971-251):						
Fiscal year 1979	(1)	(1)	(2)	(2)	--------	--------
Fiscal year 1980	(1)	(1)	(2)	(2)	--------	--------
Fiscal year 1981	(1)	(1)	(2)	(2)	--------	--------
Fiscal year 1982	(1)	(1)	(2)	(2)	--------	--------
FUNCTION 500						
Oliver Wendell Holmes Devise Fund (01-25-5075-503):						
Fiscal year 1979	(2)	(2)	(2)	(2)	(2)	(2)
Fiscal year 1980	(2)	(2)	(2)	(2)	(2)	(2)
Fiscal year 1981	(2)	(2)	(2)	(2)	(2)	(2)
Fiscal year 1982	(2)	(2)	(2)	(2)	(2)	(2)
Gift and trust fund accounts, nonrevolving, Library of Congress (01-25-9971-503):						
Fiscal year 1979	6	6	5	6	−1	(2)
Fiscal year 1980	5	5	6	6	1	1
Fiscal year 1981	5	5	6	6	1	1
Fiscal year 1982	5	5	7	6	2	1
Total, function 500:						
Fiscal year 1979	6	6	5	6	−1	(2)
Fiscal year 1980	5	5	6	6	1	1
Fiscal year 1981	5	5	6	6	1	1
Fiscal year 1982	5	5	7	6	2	1
FUNCTION 800						
Congressional use of foreign currency, Senate (01-05-0188-801):						
Fiscal year 1979	1	1	1	1	0	0
Fiscal year 1980	1	1	1	1	0	0
Fiscal year 1981	1	1	1	1	(2)	(2)
Fiscal year 1982	1	1	1	1	(2)	(2)
Presidential election campaign fund (15-05-5081-806):						
Fiscal year 1979	40	2	40	1	(2)	−1
Fiscal year 1980	45	86	45	50	0	−36
Fiscal year 1981	47	0	35	9	−12	9
Fiscal year 1982	48	0	35	0	−13	0
Senatorial election campaign fund (proposed new program):						
Fiscal year 1979	0	0	0	0	0	0
Fiscal year 1980	0	18	0	0	0	−18
Fiscal year 1982	0	0	0	0	0	0
Fiscal year 1982	0	18	0	0	0	−10
House of Representatives election campaign fund (proposed new program):						
Fiscal year 1979	0	0	0	0	0	0
Fiscal year 1980	0	30	0	0	0	−30
Fiscal year 1981	0	0	0	0	0	0
Fiscal year 1982	0	30	0	0	0	−30
Total, function 800:						
Fiscal year 1979	40	2	40	1	(2)	−1
Fiscal year 1980	45	134	45	50	0	−84
Fiscal year 1981	47	0	35	9	−12	9
Fiscal year 1982	48	48	35	0	−13	−48
Total:						
Fiscal year 1979	47	9	47	8	(2)	−1
Fiscal year 1980	51	140	51	57	1	−83
Fiscal year 1981	52	6	42	16	−10	10
Fiscal year 1982	54	54	43	7	−12	−47

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[1] Fiscal year 1979 amounts not in fiscal year 1980 views and estimates.

[2] Less than $500,000.

Note: Detail may not add due to rounding.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-222

REPORT OF THE SELECT COMMITTEE ON SMALL BUSINESS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 15 (legislative day, MAY 21), 1979.—Ordered to be printed

[Filed under authority of the order of the Senate of JUNE 14 (legislative day, MAY 21), 1979]

Mr. **NELSON**, from the Select Committee on Small Business, submitted the following

REPORT

Section 302(b) of the Congressional Budget Act of 1974 provides that as soon as practicable after a concurrent resolution on the budget is agreed to, every committee to which an allocation was made in the joint explanatory statement accompanying the conference report shall subdivide its allocation among subcommittees or programs over which it has jurisdiction, further subdivide the amount of each program between controllable and "all other" amounts and report its subdivisions to the Senate.

There were no revisions made in the amendments to the Second Concurrent Resolution for Fiscal Year 1979 to change the allocation made to or by the Select Committee in its report of July 11, 1978 (S. Rept. 95-973).

The entire amount of direct spending allocated to the Select Committee on Small Business for fiscal years 1980, 1981, and 1982 pursuant to the explanatory statement of Senate managers accompanying the First Concurrent Resolution on the Budget for fiscal year 1980 (H. Con. Res. 107) is for the disaster loan fund of the Small Business Administration.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–223

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1979

JUNE 18 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. STENNIS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 429]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429) to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1979, funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Air Force and the Navy for procurement of aircraft, missiles, and naval vessels, as authorized by law, in amounts as follows:

(1) For aircraft: for the Air Force, $45,000,000.
(2) For missiles: for the Navy, $143,700,000.
(3) For naval vessels: for the Navy, $1,450,700,000.

SEC. 102. There is authorized to be appropriated for fiscal year 1979 the sum of $80,100,000 to be available only for contribution by the

United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System (AWACS).

Sec. 103. (a) During fiscal year 1979, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1979, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and;

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1979, funds are hereby authorized to be appropriated fo fiscal year 1979 for the use of the Armed Forces for research, development, test, and evaluation, as authorized by law, in amounts as follows

(1) For the Army, $43,700,000.
(2) For the Navy, $3,000,000.
(3) For the Air Force, $253,800,000.

Sec. 202. (a) It is the sense of the Congress that maintaining a sur vivable land-based intercontinental ballistic missile system is vital t the security of the United States and the development of a new basin mode for land-based intercontinental ballistic missiles is necessar to assure the survivability of the land-based system. To this end, th development of the MX missile, together with a new basing mode fo such missile, should proceed so as to achieve Initial Operational Cap bility (IOC) for both such missile and such basing mode at the earlie practicable date.

(*b*) *In addition, it is the sense of the Congress that the basing mode for the MX missile should be restricted to location on the least productive land available that is suitable for such purpose.*

(*c*) *In accordance with the sense of Congress expressed in subsection* (*a*), *the Secretary of Defense shall proceed immediately with full scale engineering development of the missile basing mode known as the Multiple Protective Structure* (*MPS*) *system concurrently with full scale engineering development of the MX missile, unless and until the Secretary of Defense certifies to the Congress that an alternative basing mode is militarily or technologically superior to, and is more cost effective than, the MPS system or the President informs the Congres that in his view the MPS system is not consistent with United States national security interests.*

(*d*) *Nothing in this section shall be construed to prohibit or restrict the study of alternative basing modes for land-based intercontinental ballistic missiles.*

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: *An Act to authorize supplemental appropriations for fiscal year 1979 for procurement of aircraft, missiles, and naval vessels and for research, development, test, and evaluation for the Armed Forces, and for other purposes.*

And the House agree to the same.

John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd,
Sam Nunn,
John Culver,
John Tower,
Strom Thurmond,
Barry Goldwater,
John W. Warner,
Managers on the Part of the Senate.

Melvin Price,
Charles E. Bennett,
Samuel S. Stratton,
Richard H. Ichord,
Lucien N. Nedzi,
Charles H. Wilson,
Richard C. White,
Bill Nichols,
William L. Dickinson,
G. William Whitehurst,
Floyd Spence,
Robin L. Beard,
Donald J. Mitchell,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429) to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROCUREMENT

Eight money and two language differences contained in title I. procurement, were resolved by the conference, as follows:

AIR FORCE

B-52 ODS/FRODS

The Senate authorized $10 million requested by the administration for initial procurement of modification kits for equipping the B-52G with an air inlet that will serve as a functionally related observable difference for arms control verification purposes. The House amendment did not contain this authorization and the House also had deleted the request for $22 million for this program under title II, research and development.

Senate conferees insisted that the program should be initiated because it is related to SALT. House conferees agreed to include $5 million for this procurement.

The House recedes with an amendment.

F-100 engine modules

In its concern for the readiness posture of the F-15 aircraft program, the Senate authorized $42 million for procurement of F-100 modules. This amount was originally requested in the earlier version of the supplemental authorization submitted by the Department of Defense in January. However, the program was subsequently deleted when the Defense Department submitted an amended version of the supplemental request to the Congress later in this session. The House-passed bill did not contain procurement authorization for this item.

Senate conferees were convinced that these spare engine modules could be effectively and efficiently utilized to improve the readiness posture of the Air Force. The conferees agreed to authorize $20 million for fiscal year 1979.

The House recedes with an amendment.

ALQ-131 ECM pods

Although the Defense Department supplemental request did not contain a procurement request for the ALQ-131 electronic countermeasure (ECM) pods, the House-passed bill authorized $40 million for procurement of this item based on Air Force testimony that revealed a high-priority requirement for this equipment. The Senate-passed bill did not contain authorization for the ALQ-131.

House conferees pointed out that testimony before the House committee was to the effect these ECM pods were one of the Air Force's highest priorities and that additional procurement in fiscal year 1979 would result in a considerable reduction in total program costs. The conferees agreed to authorize $20 million for fiscal year 1979.

The Senate recedes with an amendment.

NATO AWACS (special authority for Secretary of Defense)

In addition to the Defense Department request for authorization of $85.1 million designated for NATO AWACS, the Department also requested legislation authorizing the Secretary of Defense to take necessary actions to implement the multilateral memorandum of understanding, signed in December 1978. The Senate bill and House amendment differed in the following respects as to the legislation approved. The Senate bill authorized the Secretary of Defense to assume contingent liability for losses resulting from the gross negligence of U.S. contracting officer. The House amendment provided that the authortiy granted the Secretary in this section be limited to the extent provided in appropriations acts as required by the Congressional Budget Act of 1974. The conferees agreed to accept the additional authority provided in the Senate bill and also to accept the requirement for implementing appropriations legislation contained in the House amendment.

The Senate recedes with an amendment.

NATO AWACS (authorization of funds)

The Defense Department requested $85.1 milion for colntribution to the NATO airborne warning and control system (AWACS) program.

The Senate bill authorized, as a portion of Air Force aircraft procurement, $80.1 million to be used only for the U.S. fiscal year 1979 share of program. The House amendment contained a separate section, in the procurement title of the bill, authorizing $85.1 million. The conferees agreed to authorize, in a separate section, $80.1 million to be used only for the U.S. contribution to the NATO AWACS program.

The House recedes with an amendment.

MISSILES

NAVY

Phoenix

The House amendment provided $58.8 million for the procurement of 150 Phoenix missiles. The Senate bill provided no authorization for this purpose. After discussion, the conferees agreed that the procurement of these missiles, originally ordered and cancelled by the Government of Iran, could make an immediate improvement in the Navy's readiness.

The Senate recedes.

Harpoon

The supplemental budget request contained $116.9 million for 208 Harpoon missiles previously ordered by the Government of Iran and canceled. The House amendment provided the entire amount requested. The Senate bill provided $59 million for the procurement of an unspecified number of missiles which have been manufactured.

The House recedes.

NAVAL VESSELS

Navy destroyers (DDG–993)

The Senate bill authorized $1,353 million for four DDG–993 destroyers recently canceled by the Government of Iran. The House amendment authorized $628 million for two of the four destroyers.

The conferees agreed that because of the potential cost savings of some $200 million per ship, the capability and quality of these ships, and the clear need for these guided missile destroyers by the Navy, authorization for four destroyers in this bill is the most sensible and practical approach. The purchase of these destroyers will enhance fleet air defense in the near term and partially offset declining surface ship force levels in the future.

The House recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

There were 13 money items in disagreement in title II of the bill,
hree in the Army, two in the Navy, six in the Air Force and one in
he Defense Agencies, and one language difference. These issues were
esolved by the conference as follows:

ARMY

ATO antitank cooperative development

The House amendment authorized $18.7 million to initiate improve-
ents to the tube-launched, optically tracked, wire-guided (TOW)
titank missile and to begin development of a new antitank weapon.
The Senate bill authorized $13.7 million for the TOW improvement
ogram but deleted the $5 million requested for the new antitank
apon.

The House recedes.

Pershing II

The House amendment authorized $42 million to accelerate full scale engineering development of the extended range version of the Pershing II missile system but transferred program responsibility from the Army to the Air Force.

The Senate bill authorized the $42 million for the Army as requested.

The conferees agreed to an authorization of $30 million for Army R.D.T. & E. for the full scale engineering development of the Pershing II theater nuclear ballistic missile system.

During the joint conference on H.R. 10929, the fiscal year 1979 Department of Defense Appropriation Authorization Act, the conferees expressed concern over the lack of centralized management in the Department of Defense in the tactical nuclear forces program. This lack of centralized control was resulting in an uncoördinated development of new tactical nuclear weapons, and in some cases, the programs were not receiving adequate support due to funding and other constraints. Consequently, the conferees directed that certain surface-to-surface theater nuclear development programs be consolidated and that an integrated development and deployment plan be submitted to the Congress not later than the fiscal year 1980 budget submission. Additionally, the conferences directed that the Pershing II program be transferred to the Air Force with accompanying guidance that permitted the Secretary of Defense to transfer program management back to the Army only after he advised the Congress that it was in the program's best interest to do so.

The Secretary of Defense did not comply in a timely manner with the guidance provided by the conference. While it is understood the delay was not intentional, the conferees wish to reiterate their belief that congressional guidance must be properly complied with if the Congress and the Defense Department are to work in a mutually cooperative manner on defense problems.

In view of the urgent requirement to modernize our theater nuclear missile forces, the conferees agreed to the authorization of $30 million for Pershing II in the Army's research and development program.

The House recedes with an amendment.

Chemical/biological defense

The Senate bill added $4.5 million for development of protective equipment for chemical defense. This authorization was requested in the administration's original supplemental request but was deleted in favor of other items in the amended request.

The House amendment did not contain authorization for this program.

The Senate recedes.

NAVY

Trident II

The House amendment deleted the $20 million requested for the Trident II missile program.

The Senate bill authorized the $20 million as requested.

The Senate recedes.

Small waterplane area twin hull (SWATH) ship

The House amendment deleted the $3 million requested for the SWATH ship program.

The Senate bill authorized $3 million to continue feasibility studies and exploration of various propulsion concepts for the SWATH ship.

The House recedes.

AIR FORCE

MX Basing Options Study

The House amendment deleted the $75 million requested to support further study of an air mobile basing system for the MX missile.

The Senate bill authorized the full request. The information available to the conferees is that subsequent to Senate action, further study of the air mobile concept was not being pursued.

The Senate recedes.

The bill contains $190 million for development of the MX missile, which includes the multiple protective structure MPS basing mode. This authorization was approved by both Houses and was not in dispute in conference.

Air launched cruise missile/B-52 integration

The Senate bil authorized the $33 million requested to cover cost growth and the expanded scope of work associated with the integration of the air launched cruise missile with the B-52.

The House amendment authorized only $10 million for this program.

The House recedes.

B-52 (SRAM/ALCM test set)

The House amendment deleted the $19 million requested to support development efforts on test equipment for the short range attack missiles (SRAM) and air launched cruise missiles (ALCM) to be carried on the B-52's.

The Senate bill authorized the full request.

The conferees agreed to an authorization of $10 million.

The House recedes.

B-52 ODS/FRODS

The House amendment deleted the $22 million requested to support the research and development of observable differences (ODS) and functionally related observable differences (FROD) for arms control verification purposes.

The Senate bill authorized $12 million in ODS/FRODS related work in the research and development account. The remaining $10 million was transferred to the Air Force procurement account for initial procurement of modification kits for equipping the B-52G with a unique air inlet.

The conferees agreed to authorize $12 million in research and development and $5 million in procurement for ODS/FRODS related work.

MEECN VLF improvements

The House amendment authorized $8.8 million to accelerate improvements to the VLF communications channels that are a part of the minimum essential emergency communications network (MEECN).

The Senate bill deleted authorization for this program.

The Senate recedes.

DEFENSE AGENCIES

Comprehensive test ban treaty

The House amendment deleted the $24 million requested for support of a research effort related to the comprehensive test ban treaty (CTBT).

The Senate bill authorized the $24 million requested for this effort.

The Senate recedes.

Section 202—MX basing mode

The conferees agree to accept section 202 of the House bill on the importance of a survivable land-based ICBM system and the necessity for a decision on the basing mode for the new MX missile.

The House report accompanying the House language defined multiple protective structure (MPS) as the vertical protective structure system. In accepting the proposed House language, the Senate conferees wish to state their understanding that the MPS system includes both vertical and horizontal modes, as defined in testimony before the Senate Armed Services Committee. Testimony before the House Armed Services Committee clearly demonstrated, however, that the vertical MPS system is the most cost effective basing mode. In the event a nonvertical MPS mode is selected for full scale engineering development, the Secretary of Defense shall submit to the Congress at such time a full justification of the mode selected, together with full data on the several versions of an MPS system available.

OTHER LANGUAGE DIFFERENCES

CV service life extension program

Section 302 of the Senate bill contained provisions that no funds authorized by this or any other act may be used for the purpose of carrying out the service life extension program for the aircraft carrier *Saratoga* unless such a program is conducted on the basis of cost as determined by the Comptroller General of the United States in his report to the Congress or as determined in such an analyses as the Secretary of Defense considers appropriate.

The House amendment contained no such provision.

While the House, for technical reasons, could not accept section 302, the conferees of both the House and Senate acknowledge that the *Saratoga* SLEP program, debated for over 2 years, will now proceed as determined by the Secretary of Defense.

It is the intention of the conferees that the Secretary of Defense will continue to proceed with that determination, taking into account consideraions of cost, national security, and such other factors as he considers appropriate.

The committees, as a proper exercise of congressional oversight and in the interest of insuring prudent management of the limited DOD dollar and manpower resources, intend to continue their close oversight and review of the carrier SLEP program.

The Senate recedes.

Extending the life of the Polaris fleet

Section 303 of the Senate bill contained provisions for a study to determine the feasibility of extending the service life of the Polaris, ballistic missile submarine fleet.

The House amendment contained no such provision.

The conferees agreed to delete section 303 without prejudice, since the subject can be addressed in the fiscal year 1980 Defense authorization bill.

The Senate recedes.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979, CONFERENCE ACTION

[In millions of dollars]

Program	Budget request	House	Senate	Conference
PROCUREMENT				
Air Force aircraft:				
B-52 (CDS, FRODS)			10.0	5.0
F-100 engine modules			42.0	20.0
ALQ-131 ECM pods		40.0	----	20.0
NATO AWACS	85.1	----	80.1	----
Programs not in dispute	481.0	----	----	----
Subtotal, Air Force aircraft	566.1	40.0	132.1	45.0
NATO AWACS (sec. 102)		85.1	----	80.1
Army missile: Hawk spares (not in dispute)	25.0	----	----	----
Navy missiles:				
Phoenix A	77.1	58.8	----	58.8
Harpoon	116.9	116.9	59.0	59.0
Standard (not in dispute)	25.9	25.9	25.9	25.9
Subtotal, Navy missiles	219.9	201.6	84.9	143.7
Navy ships:				
DDG-993 destroyers	628.0	628.0	1,353.0	1,353.0
Cost growth/claims (not in dispute)	97.7	97.7	97.7	97.7
Subtotal, Navy ships	725.7	725.7	1,450.7	1,450.7
Total procurement	1,536.7	1,052.4	1,667.7	1,719.5
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION				
Army:				
NATO antitank cooperative development	18.7	18.7	13.7	13.7
Chemical biological/defense			4.5	----
Pershing II	42.0	----	42.0	30.0
Subtotal, Army R.D.T. & E.	60.7	18.7	60.2	43.7
Navy:				
Trident II	20.0	----	20.0	----
SWATH (experimental ship design)	3.0	----	3.0	3.0
Subtotal, Navy R.D.T. & E.	23.0	----	23.0	3.0
Air Force:				
M-X basing options	75.0	----	75.0	----
Air launched cruise missile (B-52 integration)	33.0	10.0	33.0	33.0
B-52 (SRAM/ALCM test set)	19.0	----	19.0	10.0
B-52 (ODS/FROD)	22.0	----	12.0	12.0
Command and control VLF improvement	8.8	8.8	----	8.8
Pershing II		42.0	----	----
Programs not in dispute	200.0	190.0	190.0	190.0
Subtotal, Air Force R.D.T. & E.	357.8	250.8	329.0	253.8
Defense agencies: Comprehensive test ban (DARPA)	24.0	----	24.0	----
Total, research, development, test, and evaluation	465.5	269.5	436.2	300.5
Total, authorization	2,002.2	1,321.9	2,103.9	2,020.0

John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd,
Sam Nunn,
John Culver,
John Tower,
Strom Thurmond,
Barry Goldwater,
John W. Warner,
Managers on the Part of the Senate.

Melvin Price,
Charles E. Bennett,
Samuel S. Stratton,
Richard H. Ichord,
Lucien N. Nedzi,
Charles H. Wilson,
Richard C. White,
Bill Nichols,
William L. Dickinson,
G. William Whitehurst,
Floyd Spence,
Robin L. Beard,
Donald J. Mitchell,
Managers on the Part of the House.

○

Calendar No. 239

96th Congress } SENATE { Report
1st Session } { No. 96–224

SUPPLEMENTAL APPROPRIATIONS BILL, 1979

June 18 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Magnuson, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 4289]

The Committee on Appropriations, to which was referred the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended.

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SUMMARY OF THE BILL

The budget estimates on which the bill is based are contained in H. Doc. 96-41 (January 22, 1979), H. Doc. 96-54 (February 13, 1979), H. Doc. 96-58 (February 26, 1979), H. Doc. 96-64 (March 1, 1979), H. Doc. 96-66 (March 5, 1979), H. Doc. 96-82 (March 27, 1979), H. Doc. 96-85 (April 2, 1979), H. Doc. 96-92 (April 9, 1979), H. Doc. 96-96 (April 23, 1979), H. Doc. 96-97 (April 23, 1979), H. Doc. 96-108 (April 30, 1979), H. Doc. 96-113 (May 4, 1979), H. Doc. 96-128 (May 21, 1979), H. Doc. 96-130 (May 22, 1979), H. Doc. 96-132 (May 23, 1979), H. Doc. 96-138 (June 4, 1979), H. Doc. 96-145 (June 8, 1979).

COMMITTEE ACTION

The Committee is recommending substantial reductions in the supplemental budget estimates for fiscal year 1979 which the administration has forwarded for consideration. These estimates exceed $16.7 billion. The Committee has carefully reviewed these requests and recommends approval of $13.9 billion. This is a reduction of $2.9 billion or 17 percent below the Administration estimates.

In addition to the new budget authority recommended in the bill, the Committee is recommending approval of $218 million in transfer authority between various accounts.

BILL HIGHLIGHTS

Major items in the bill include the following:

	Committee recommendation
Increased pay costs for military and civilian personnel	$2, 412, 228, 100
Food stamp program	988, 786, 000
Child nutrition program	133, 000, 000
Disaster relief	194, 000, 000
NASA: Research and development	185, 000, 000
Veterans' Administration: Compensation and pensions	1, 129, 400, 000
Veterans' Administration: Readjustment benefits	301, 700, 000
Medicaid	554, 429, 000
Student loan insurance fund	243, 189, 000
Grants to States for social and child welfare services	188, 548, 000
Corporation for public broadcasting	162, 000, 000
Small Business Administration: Disaster loans	1, 018, 000, 000
Amtrak	119, 000, 000
Conrail	239, 000, 000
Civil Service retirement and disability fund	335, 355, 000
Middle East peace treaty	1, 470, 000, 000
M-X missile	190, 000, 000
Purchase of four DD6-993 destroyers	1, 353, 000, 000

PROLIFERATION OF APPROPRIATIONS

In the past, a Supplemental Appropriation Act was used by the Congress to fund new programs recently authorized or to meet urgent and emergent situations that could not have been foreseen. In more recent years that appears to be the expectation, rather than the rule.

Over the past 6 months, the Congress has received 17 separate budget estimates from the Office of Management and Budget seeking supplemental funding for fiscal year 1979. Those estimates involved 157 different departments of agencies of government; some 407 individual appropriations; and over $16.7 billion.

An additional request was received from the President and the OMB on May 31—too late for the House Committee to consider in their action on H.R. 4289—for the District of Columbia in the amount of $127,877,700. Yet another request was received June 8, 2 days after the House passed H.R. 4289. That supplemental estimate involves six different agencies of Government, eight individual programs and is in the amount of $810,219,000.

Obviously that proliferation of supplemental budget estimates makes it difficult for this Committee to hold exhaustive hearings and adequately review each individual program. It is perhaps impossible in the case of those estimates received most recently. It is equally obvious that the President and the OMB must impose tighter fiscal management controls over the executive agencies. This will require the assumption of a more active role in the development of those estimates, the planning and the submission of such supplemental requests.

As indicated by the action taken by this Committee on the estimates presented—the total denial or reduction of those pending supplemental requests by $2.9 billion—we are exercising a far more restrictive role in approving such additional funds. We intend to be even more restrictive in the future on such requests that are not received in a more timely and orderly fashion, and most importantly, that are not of a truly urgent nature.

THE LACK OF AUTHORIZATIONS

The lack of timely authorizations for existing programs greatly inhibits the ability of this Committee to do its work. Often it is also impossible to take advantage of new initiatives that hold promise of cost savings or improved efficiency. In this bill alone, budget requests for $800 million lacked authorizations.

This lack of authorizations is even more significant in relation to Fiscal Year 1980 appropriations. As of April 1st, there was over $130 billion in budget requests for programs that were not authorized for Fiscal Year 1980. The bulk of that amount remains unauthorized today.

This is a problem the appropriation process faces where both the Congress and the Executive Branch bear a measure of responsibility. The President will often propose changes in existing programs and base budget requests upon enactment of those changes. Yet the Executive Branch will often delay for several months the submission of legislation to bring about those changes. The legislative committees frequently delay action on such changes in existing programs well beyond the deadlines imposed by the Congressional Budget Act. All these combine to make it difficult, if not impossible, for the Committee on Appropriations to incorporate such changes in its fundings recommendations.

This is a matter that should receive the attention of all Members of the Congress, especially the leadership, and a matter that possibly requires amendments to the Congressional Budget Act.

CONTROL OF FEDERAL SPENDING—AN ILLUSIVE TARGET

The average citizen quite legitimately asks the question "Why has Federal spending grown so?" While the casual observer of the Federal fiscal process will ask "Why has Federal spending become so apparently uncontrollable?"

This has long been a concern to the members of this Committee. Like our counterparts on the House Appropriations Committee who expressed similar concerns, we wish to address this critical public issue.

This Committee has clearly responded to the need to slow down Federal spending. In this bill alone, this Committee has not approved budget requests and estimates that would increase appropriations in fiscal 1979 by $2.9 billion. But any efforts by the Appropriations Committees to hold down spending, to reduce and eliminate the chronic deficits in the Federal budget are frustrated—if not made impossible—by the extent to which an increasing number of programs make annual expenditures mandatory.

Over the past 5 years, the Congress has actually lost ground in any effort to control Federal expenditures because of the so-called "uncontrollables". In the fiscal 1980 budget submitted by the President in January, some 76 percent of those outlays are relatively uncontrollable under present law. In 1977 the comparable figure was 73 percent; in 1973, 70 percent; in 1969, 63 percent; and in 1967 it was 59 percent.

Entitlements and escalator clauses for benefit programs are the primary causes for the tremendous growth in uncontrollable expenditures. Those two phenomena have contributed to a situation whereby such a high percentage of the budget escapes the annual competition with other programs for Federal dollars. Of special concern to this Committee is that those two phenomena make it possible for such programs to escape entirely the controls of the appropriations process.

ENTITLEMENTS ESCAPE APPROPRIATIONS CONTROL

If the Congress is ever going to exercise adequate control over the spending side of the budget, it will have to come to grips with what are known as entitlements. Entitlement authority is defined in the Congressional Budget Act as spending authority "to make payments, including loans and grants, the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

Entitlement programs primarily involve payments directly to individuals, like veterans benefits, unemployment and welfare benefits. Such entitlement programs have escalated in the past decade to the point where this year they constitute over 75 percent of the uncontrollable outlays and 55 percent of the total gross budget outlays. The growth in entitlement programs is evident when compared with 10 years ago when they constituted 64 percent of the uncontrollable outlays and 40 percent of the total budget.

ESCALATOR CLAUSES COMPOUND THE PROBLEM

In recent years, the enactment of legislation providing for individual benefits under entitlement programs to increase automatically as the various inflation indexes increase has had an enormous adverse impact on the ability of both the Congress and the Executive to control the budget. With the exception of pay for Federal employees, all such adjustments become effective automatically without the requirement of any current action by Congress.

All major entitlement programs involving payments for individuals are now affected by price indexes. About 58 percent of the budget authority this year involves programs which are adjusted automatically by price indexes. Such programs include food stamps, school lunch, veterans and survivors pensions, civil service retirement, railroad retirement, social security, supplemental security income, black lung benefits, older Americans and child nutrition.

The impact of escalator clause adjustments in any one fiscal year differs by individual program because of variances in effective dates and escalation percentages. However, a recent study by the House Appropriations Committee found that, if it is assumed, for example, that a 7-percent adjustment was in effect for all the subject programs uniformly over a 12-month period, the increased cost would be in excess of $20 billion. In other words, through these escalator clauses, additional inflation is added to match inflation through devices over which Congress exercises no effective annual review and control.

CONTROL OF TOTAL BUDGET MUST BE ASSUMED

This Committee is deeply concerned that the Congress may never be able to achieve adequate and equitable control of the budget if such massive expenditures escape review in the appropriations process. All Federal programs should compete on the same basis where Congress determines priorities and makes those determinations on an annual basis for the total Federal budget. Efforts directed at improving congressional control of expenditures cannot be isolated to just that shrinking portion of the Federal budget that remains controllable.

In 1974, when the Congressional Budget and Impoundment Control Act was enacted, one of the most important objectives was to eliminate the fragmentation in the congressional budget decision-making process. Title IV of that act attempted to eliminate the proliferation of the so-called "backdoor spending" devices—contract authority, borrowing authority, and entitlements—and those provisions have proved helpful. The Congress has shown the will to stem the tide of such new backdoor spending legislation, on occasion, and it must exercise that will in the future. But the fact remains that those existing Federal programs not subject to annual review in the regular authorization and appropriation process remain virtually uncontrollable and the costs have continued to grow at a much faster rate than those programs which the Congress does control through appropriation bills.

The Appropriations Committees review only 59 percent of the total budget. The budget for fiscal year 1980 recommended by the President totals $616 billion, yet only $362 billion will be considered in connection with the bills reported by the Appropriations Committee. The result is that the Congress is deprived of the opportunity to thoroughly review over $254 billion in that 1980 budget through the very mechanism which has repeatedly demonstrated the greatest ability to achieve control over expenditures.

The Appropriations Committees have consistently reduced the overall estimates presented the Congress. In the 5 fiscal years just preceding adoption of the Budget Act, the Congress in its actions on appropriations bills reduced the requests of the administration for new budget authority by $30 billion. During that same period, however, Congress also approved budget authority in legislative bills other than appropriations bills that exceeded the budget estimates by slightly over $30 billion.

The Congress cannot ignore the fact that it took those actions in prior years that have now rendered 76 percent of the budget uncontrollable. Only the Congress can now regain that control if it has the will to do so. Today, that will has not been strong enough to deal with the fiscal consequences of those past actions.

This Committee intends to take the lead in opposing any new legislation that contain backdoor spending devices.

This Committee stands ready to cooperate with others, in the Congress and the Executive, to bring those uncontrollable programs within the regular authorizing and appropriations process.

TABULAR SUMMARY

Details with respect to each of the recommended items can be found in the request documents and in the narrative included in each chapter, and in the tabulations at the conclusion of each chapter of this report. A summary tabulation follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Chapter No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendations compared with (+ or −): Budget estimates	Senate committee recommendations compared with (+ or −): House bill
	SUMMARY					
	TITLE I—GENERAL SUPPLEMENTALS					
I	Agriculture:					
	New budget (obligational) authority	$2,208,647,000	$507,450,000	$1,132,102,000	−$1,076,545,000	+$624,652,000
	Appropriations	(1,253,687,000)	(507,450,000)	(1,132,102,000)	(−121,585,000)	(+624,652,000)
	Authority to borrow	(954,960,000)			(−954,960,000)	
II	Defense:					
	New budget (obligational) authority	2,420,362,000	1,103,962,000	2,115,062,000	−305,300,000	+1,011,100,000
	Transfer from other account		(80,100,000)	(130,100,000)	(+130,100,000)	+50,000,000
III	Energy and water development:					
	New budget (obligational) authority	274,136,000	165,300,000	168,000,000	−106,136,000	+2,700,000
	By transfer	(21,900,000)	(31,900,000)	(31,900,000)	(+10,000,000)	
IV	Foreign operations:					
	New budget (obligational) authority	1,723,166,000	1,711,487,000	1,712,371,000	−10,795,000	+884,000
	Appropriations	(1,690,166,000)	(1,688,987,000)	(1,684,871,000)	(−5,295,000)	(−4,116,000)
	Reappropriations, 1979	(33,000,000)	(22,500,000)	(27,500,000)	(−5,500,000)	(+5,000,000)
V	Housing and Urban development—Independent agencies:					
	New budget (obligational) authority	1,955,084,000	1,891,449,000	1,880,449,000	−74,635,000	−11,000,000
	Increase in limitations	(313,000)	(50,000)	(50,000)	(−263,000)	
VI	Interior and related agencies:					
	New budget (obligational) authority	312,492,000	178,296,000	214,434,000	−98,058,000	+36,138,000

	Appropriations	(292,892,000)	(158,696,000)	(194,824,000)	(−98,068,000)	(+36,128,000)
	Authority to borrow	(19,600,000)	(19,600,000)	(19,600,000)		
VII	Labor and Health, Education and Welfare:					
	New budget (obligational) authority	3,049,015,000	1,627,346,000	2,288,213,000	−760,802,000	+660,867,000
	Appropriations, 1979	(2,849,369,000)	(1,465,346,000)	(2,088,567,000)	(−760,802,000)	(+623,221,000)
	Appropriations, 1981	(162,000,000)	(162,000,000)	(162,000,000)		
	Reappropriations, 1979/extended availability	(37,646,000)		(37,646,000)		(+37,646,000)
	Increase in limitations	(1,000,000)	(1,000,000)	(1,000,000)		
VIII	Legislative branch:					
	New budget (obligational) authority	18,976,600	4,328,000	6,522,000	−12,454,600	+2,194,000
	Release of sec. 311 funds	(2,500,000)			(−2,500,000)	
	Military construction:					
	New budget (obligational) authority	(138,861,000)			(−138,861,000)	
IX	State, Justice, Commerce, and the Judiciary:					
	New budget (obligational) authority	1,246,000,000	1,158,907,000	1,229,652,000	−16,348,000	+70,745,000
	Increases in limitations	(99,500,000)	(96,000,000)	(50,000,000)	(−49,500,000)	(−46,000,000)
	By transfer	(8,035,000)	(185,000)	(185,000)	(−7,850,000)	
X	Transportation:					
	New budget (obligational) authority	479,299,000	450,086,000	464,335,000	−14,964,000	+14,249,000
	Appropriations	(476,299,000)	(447,086,000)	(461,335,000)	(−14,964,000)	(+14,249,000)
	Authority to borrow	(3,000,000)	(3,000,000)	(3,000,000)		
	By transfer		(47,099,000)			(−47,099,000)
	Appropriations to liquidate contract authorization	(18,500,000)	(18,500,000)	(18,500,000)		
	Increase in limitations	(1,837,000)	(1,837,000)	(1,837,000)		
XI	Treasury, Postal Service, and General Government:					
	New budget (obligational) authority	568,677,000	413,078,000	392,994,000	−175,683,000	−20,084,000
XII	District of Columbia:					
	New budget (obligational) authority	73,965,000		23,965,000	−50,000,000	+23,965,000
	District of Columbia funds	(127,786,600)		(53,096,500)	(−74,690,100)	(+53,096,500)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Chapter No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendations compared with (+ or −): Budget estimates	Senate committee recommendations compared with (+ or −): House bill
	Total, title I—General supplementals:					
	New budget (obligational) authority	$14, 329, 819, 600	$9, 211, 689, 000	$11, 628, 099, 000	−$2, 701, 720, 600	+$2, 416, 410, 000
	Appropriations, 1979	(13, 119, 613, 600)	(9, 004, 589, 000)	(11, 378, 353, 000)	(−1, 741, 260, 600)	+2, 373, 764, 000
	Appropriations, 1981	(162, 000, 000)	(162, 000, 000)	(162, 000, 000)		
	Authority to borrow, 1979	(977, 560, 000)	(22, 600, 000)	(22, 600, 000)	(−954, 960, 000)	
	Reappropriations, 1979	(70, 646, 000)	(22, 500, 000)	(65, 146, 000)	(−5, 500, 000)	(+42, 646, 000)
	Appropriation to liquidate contract authorization	(18, 500, 000)	(18, 500, 000)	(18, 500, 000)		
	By transfer	(29, 935, 000)	(159, 284, 000)	(162, 185, 000)	(+132, 250, 000)	(+2, 901, 000)
	Increase in limitations	(102, 650, 000)	(98, 887, 000)	(52, 887, 000)	(−49, 763, 000)	(−46, 000, 000)
	Release of sec. 311 funds	(2, 500, 000)			(−2, 500, 000)	
	District of Columbia funds	(127, 786, 600)		(53, 092, 500)	(−74, 690, 100)	(+53, 096, 500)

Total, title II—Increased pay costs:					
New budget (obligational) authority	2, 591, 408, 300	2, 360, 772, 100	2, 412, 288, 100	−179, 180, 200	+51, 456, 000
By transfer	(28, 379, 331)	(40, 231, 331)	(36, 831, 331)	(+8, 452, 000)	(−3, 400, 000)
Trust fund transfer	(5, 276, 000)	(5, 276, 000)	(5, 276, 000)		
Increase in limitations	(83, 058, 000)	(47, 456, 000)	(47, 456, 000)	(−35, 602, 000)	
Release of sec. 311 funds and transfers		(13, 445, 200)	(13, 841, 200)	(+13, 841, 200)	(+396, 000)
Grand total—titles I and II:					
New budget (obligational) authority	16, 921, 227, 900	11, 572, 461, 100	14, 040, 327, 000	−2, 880, 900, 800	+2, 467, 866, 000
Appropriations, 1979	(15, 711, 021, 900)	(11, 365, 361, 100)	(13, 790, 581, 100)	(−1, 920, 440, 800)	(+2, 425, 220, 000)
Appropriations, 1981	(162, 000, 000)	(162, 000, 000)	(162, 000, 000)		
Authority to borrow, 1979	(977, 560, 000)	(22, 600, 000)	(22, 600, 000)	(−954, 960, 000)	
Reappropriations, 1979	(70, 646, 000)	(22, 500, 000)	(65, 146, 000)	(−5, 500, 000)	(+42, 646, 000)
Total, new budget (obligational) authority, 1979	(16, 759, 227, 900)	(11, 410, 461, 100)	(13, 878, 327, 100)	(−2, 880, 900, 800)	(+2, 467, 866, 000)
Appropriation to liquidate contract authorization	(18, 500, 000)	(18, 500, 000)	(18, 500, 000		
By transfer	(58, 314, 331)	(199, 515, 331)	(199, 016, 331)	(+140, 702, 000)	(−499, 000
Trust fund transfer	(5, 276, 000)	(5, 276, 000)	(5, 276, 000)		
Increase in limitations	(185, 708, 000)	(146, 343, 000)	(100, 343, 000)	(−85, 365, 000)	(−46, 000, 000)
Release of sec. 311 funds and transfers	(2, 500, 000)	(13, 445, 200)	(13, 841, 200)	(+11, 341, 200)	(+396, 000)
District of Columbia funds	(127, 786, 600)		(53, 096, 500)	(−74, 690, 100)	(+53, 096, 500)

TITLE I

CHAPTER I

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

OFFICE OF THE INSPECTOR GENERAL

The Committee recommends language in the bill to enable the Inspector General of the Department of Agriculture to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons. This language is included in the House bill and is required by the Inspector General Act of 1978 (Public Law 95–452), which prevents the Inspector General from making such contracts and arrangements unless specifically permitted in appropriations acts. Although most of the funding for the Office of the Inspector General has historically been used for personnel and other associated audit and investigative costs, contracts are used for routine administrative items as well as for specialized assistance in technical areas, training and computer services. The language is needed to permit the Inspector General to carry out his duties and responsibilities more efficiently. There would be no increase in budget authority.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

1979 appropriations to date	$35,720,000
1979 supplemental estimate	----------
House allowance	----------
Committee recommendation	3,400,000

The Committee recommends an appropriation of $3.4 million for buildings and facilities of the Agricultural Research Service. No funds were requested in the supplemental, and none were included in the House bill.

These funds are required to pay for increased costs associated with the construction of two agricultural research facilities which were funded in previous years. Bids have been received which substantially exceed the amounts available. In view of the need to construct the facilities without further delay, the Committee has included $1.7 million for the National Soil Erosion Laboratory at Purdue University, and $1.7 million for a research feedmill at El Reno, Okla. Coupled with previously appropriated amounts, these funds will make possible an early contract award based on current construction bids.

In addition, the Committee recommends retention of language contained in the House bill that will allow the Agricultural Research Service to convert an existing building at Brownsville, Tex., into an insect rearing facility. Conversion costs are estimated at $350,000, but the 1979 Act limits the amount for alteration or repair to 9 percent of the original cost of a facility. In order to effect the conversion, the Committee recommends that the existing limitation be waived for this facility. There would be no increase in budget authority.

FOOD SAFETY AND QUALITY SERVICE

1979 appropriations to date	$271,104,000
1979 supplemental estimate	-----------
House allowance	750,000
Committee recommendation	-----------

For the Food Safety and Quality Service, the Committee recommends no additional supplemental funding, the same as the budget estimate. This is $750,000 less than the House allowance.

The House provided $750,000 for additional State grants for meat and poultry inspection. At the present time, $29,600,000 has been made available to States for this purpose in 1979. This amount includes $1,000,000 above the amounts budgeted and provided for by the Congress in the 1979 Act. The Food Safety and Quality Service has reallocated the additional $1,000,000 from internal contingency resources for the meat and poultry inspection program.

The Committee believes that additional funding, beyond the extra $1,000,000 already made available, is unnecessary at this time.

EXTENSION SERVICE

1979 appropriations to date	$275,890,000
1979 supplemental estimate	-----------
House allowance	-----------
Committee recommendation	4,973,000

For the Extension Service, the Committee recommends a supplemental appropriation of $4,973,000. No funds were requested or provided in the House bill.

During fiscal year 1979, the Extension Service will have an estimated deficit of $4,973,000 to meet its obligations for the Federal retirement costs of the Cooperative Extension employees. Historically, the Federal Government has appropriated all costs for civil service coverage of these employees on Federal appointment, along with the costs of penalty mail in carrying out their educational functions.

Since 1973, the Extension Service has failed to pay the full amounts owed to the civil service retirement fund for employer contributions. A variety of factors has contributed to this failure to fund fully the accrued liabilities, but most relate to the tight financial situation faced by the Extension Service.

The Committee is recommending a one-time appropriation for deficits in employer contributions to the civil service retirement fund. In the future, the Extension Service is to manage its funds on an annual basis so that all liabilities are paid as they are accrued. The Committee will not entertain future requests for financing of retirement costs beyond those associated with current year programs.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

1979 appropriations to date	**$3,240,000**
1979 supplemental estimate	---------
House allowance	---------
Committee recommendation	**1,943,000**

For the Dairy and Beekeeper Indemnity programs, the Committee recommends a supplemental of $1,943,000. No funds were requested or provided in the House bill for this program.

Funding recommended by the Committee is to be used solely for payments for beekeeper indemnity claims on file as of May 22, 1979. No funds are included for the Dairy Indemnity program.

Beekeeper Indemnity payments are authorized to be made to beekeepers who, through no fault of their own, suffered loss from economic poisons which had been registered and approved by the Federal Government. It has been chronically difficult to fully validate the legitimacy of the indemnities claimed.

The administration has recommended elimination of the program in the 1980 budget request. The Committee notes that only 1,826 beekeepers participated in the program in 1977, the last year for which complete data is available. Payments averaged over $2,176 for each beekeeper in 1977 but the 20 largest payees together received $862,855, or an average of $43,142 each. This pattern of large payments to a very small number of payees has been repeated for many years. During the past 10 years, the 20 largest payees have received a total of $6,397,077 under the program.

Funds included in the bill are to be used to pay valid claims on file through May 22, 1979, and close out the program. The Committee will not provide funding for Beekeeper Indemnity payments in future years.

The Committee recommends that consideration be given to development of an insurance scheme for beekeepers that will permit recovery of their losses based on actuarially sound principles coupled with necessary premium payments.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

1979 appropriations to date [a]	**$469,167,000**
1979 supplemental estimate [a]	**984,960,000**
House allowance	---------
Committee recommendation	---------

[a] **Includes current and permanent authorities available in 1979.**

For the Rural Housing Insurance Fund, the Committee recommends no supplemental appropriation, the same as the House allowance. The budget request was for $984,960,000.

The budget requested $984,960,000 to implement a new home ownership assistance program in rural areas for applicants whose incomes are so low that they lack the repayment ability needed to qualify for a loan under the current section 502 interest credit programs (loans as low as 1 percent interest). The proposed program would allow bor-

rowers to purchase a home while paying no more than 25 percent of their adjusted income toward principal, interest, taxes, insurance, utilities and maintenance.

The Committee has deferred funding for the program without prejudice, and will consider it in connection with the 1980 budget request. The Committee notes that even if funds were provided in this supplemental, they could not be used in fiscal year 1979 because of the lateness in the fiscal year, and the inability to complete regulations in time to implement the program.

AGRICULTURAL CREDIT INSURANCE FUND

1979 loan level provided to date	($825, 000, 000)
1979 supplemental estimate	
House allowance	(100, 000, 000)
Committee recommendation	(100, 000, 000)

For the Agricultural Credit Insurance Fund, the Committee recommends an increase of $100,000,000 in the insured operating loan level. This is the same amount as the House allowance, and $100,000,000 above the supplemental request.

The additional operating loans recommended by the Committee would bring the program up to a total level of $925,000,000 in fiscal year 1979. These funds are needed because several States are currently out of operating loan funds and farmers have no access to funds needed to plant their crops.

The Committee notes that the current situation is a direct result of poor management of quarterly allotments of loans on the part of Farmers Home Administration. Also, FmHA has failed to utilize Economic Emergency Loan funds where appropriate. The Department and the Agency are to take necessary and appropriate steps to allocate loans more prudently so as to avoid a future reoccurrence of problems of this nature in the middle of a fiscal year.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

1979 appropriations to date [1]	$2, 697, 110, 000
1979 supplemental estimate	133, 000, 000
House allowance	100, 000, 000
Committee recommendation	133, 000, 000

[1] Includes amounts provided by transfer from sec. 32.

For Child Nutrition Programs, the Committee recommends a supplemental appropriation of $133,000,000, the same as the budget estimate and $33,000,000 more than the House allowance.

The administration requested a supplemental of $133,000,000 to fund the legally mandated reimbursement rates for schools meals, summer and child care meals, to purchase commodities for donation to the feeding programs, and to fund grants to States for their administrative expenses in accordance with the language of Public Law 95-627, the Child Nutrition Amendments of 1978. Both the number of meals to be served, and the rates to which the States will be entitled are now projected to be larger than the original budget estimates.

The Committee is recommending providing the full amount requested. The Committee also fully supports the administrative actions needed to be taken to eliminate fraud and abuse in this program. Necesssary changes were documented at a hearing held with the Inspector General of the Department of Agriculture on April 25, 1979, and the Committee expects rapid implementation of these changes.

In addition, the Committee directs the Department to continue its efforts to complete updates of child nutrition funding accounts, in order to identify available balances. In connection with this effort, and the need to maintain tighter control over the program, the Committee recommends inclusion in the bill of language requested by the administration but not included in the House bill, that provides that "only claims for reimbursement for meals served during 1979 received by the Secretary before April 1980 shall be eligible for reimbursement". States are urged to submit claims in a timely fashion.

The Committee also recommends inclusion of language in the bill stipulating that $6,077,000 of the amount appropriated is for State administrative expenses. Public Law 95–627, approved November 10, 1978, requires that the amount of State administrative expenses grants be computed as 1½ percent of the second preceding year's program costs. This results in additional requirements of $6,077,000 beyond the $25,000,000 provided in the 1979 Appropriations Act. The House bill did not include the language requested by the administration.

Also included is language which predicates the availability of State administrative expenses on State's willingness to cooperate in studies directed by Congress and requested by the Secretary of Agriculture. Typical among these studies would be the survey of school food survey equipment directed by the Congress in House Report 95–1579, page 25.

The Committee notes that, in accordance with Senate Rule XVI, these language amendments proposed are not made to carry out the provisions of existing law.

FOOD STAMP PROGRAM

1979 appropriations to date	$5,779,200,000
1979 supplemental estimate	1,038,786,000
House allowance	379,700,000
Committee recommendation	988,786,000

For the Food Stamp program, the Committee recommends a supplemental of $988,786,000 which is $50,000,000 below the budget request but $609,086,000 more than the House allowance.

The supplemental is needed to cover increases in bonus costs of $953,076,000 and State administrative costs of $35,710,000. Failure to enact a supplemental request will result in severe cutbacks in food stamp benefits in compliance with section 18(b) of the Food Stamp Act of 1964, as amended, which provides that:

> In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

Because of this change of law, enacted in the Food Stamp Amendments of 1977, the program is no longer an entitlement program, but must operate in accordance with laws pertaining to regular appropriations.

The Committee recognizes that the amount provided in the bill exceeds the present authorization level by $609,086,000, however its action is predicated on need, the desire to avoid harm to program recipients, and the lack of adjustment in authorization levels by the Congress to date.

The Committee further notes that because of significant uncertainties associated wtih the participation rates and recertification of eligibles now taking place, the food stamp budget estimate is tentative. The administration advised the Committee that it has calculated that supplemental requirements range between $888,786,000 and $1,038,786,000. Because of this $150,000,000 variance in potential food stamp costs, and because of the Committee's desire to avoid any cutbacks in benefits, two-thirds of the higher end of the range has been funded but the amount has been made available only through September 30, 1979. This is to insure that only that portion of the appropriation needed to finance 1979 benefits will actually be obligated and spent. The Department of the Treasury and the Department of Agriculture are further directed to utilize all currently available food stamp appropriations prior to obligation of any of the supplemental funds provided herein. This is to insure that funding appropriated to date, plus this supplemental, will be used for the 1979 program only, and not to fund future year programs. This will provide an accurate accounting of food stamp program costs.

FOOD DONATIONS PROGRAMS

NEEDY FAMILY PROGRAMS

1979 appropriations to date	$12,800,000
1979 supplemental estimate	24,901,000
House allowance	----------
Committee recommendation	----------

For the Needy Family Programs, the Committee recommends provision of no additional appropriation, the same as the House allowance. The budget request was for $24,901,000.

Additional funding was requested to meet increased requirements mandated by Public Law 95–113. However, the Department is making use of commodities purchased with section 32 and/or CCC funds to meet program requirements. Accordingly, no additional appropriation is needed.

ELDERLY FEEDING PROGRAM

1979 appropriations to date[1]	$30,000,000
1979 supplemental estimate	27,000,000
House allowance	27,000,000
Committee recommendation	----------

[1] Made available under the continuing resolution.

For the Elderly Feeding Program, the Committee does not recommend a supplemental appropriation. The budget request was for $27,000,000, and the House allowance was for the full amount.

The Department is making use of commodities purchased with section 32 and/or CCC funds to meet program requirements. Accordingly, no additional appropriation is needed.

PUBLIC LAW 480

The budget requested an increase in the limit on titles I and III program levels of the Public Law 480 program to accommodate unfinanced 1978 commitments. The requested increase would have no impact on budget authority, but would increase fiscal year 1979 outlays by $58,726,000. The House did not recommend provision of the revised language and the Committee has not recommended it for inclusion in the bill.

INCREASED PAY COSTS

The Committee recommends a total appropriation of $51,165,000 for increased pay costs for fiscal year 1979. This is $6,500,000 more than the House allowance, and is $10,705,000 below the budget request of $61,870,000 for increased pay costs. The additional $6,500,000 is for the Agricultural Research Service and the Food Safety and Quality Service, offset by a small reduction in the Rural Electrification Administration. Also, within total funds provided, an adjustment has been made to House allowances within three appropriations for the Soil Conservation Service. These amounts are included in the total for pay costs provided under title II of the bill.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER I					
DEPARTMENT OF AGRICULTURE					
Agricultural Research Service (Buildings and facilities)			$3,400,000	+$3,400,000	+$3,400,000
Extension Service			4,973,000	+4,973,000	+4,973,000
Agricultural Stabilization and Conservation Service—Dairy and beekeeper indemnity programs			1,943,000	+1,943,000	+1,943,000
Food Safety and Quality Service		$750,000			−750,000
FARMERS HOME ADMINISTRATION					
Rural Housing Insurance Fund:					
Home ownership assistance (authority to borrow)	$954,960,000			−954,960,000	
Home ownership assistance payments	30,000,000			−30,000,000	
Total, Rural Housing Insurance Fund	984,960,000			−984,960,000	
Agricultural Credit Insurance Fund: Operating loans		(100,000,000)	(100,000,000)	(+100,000,000)	
FOOD AND NUTRITION SERVICE					
Child nutrition programs	133,000,000	100,000,000	133,000,000		+33,000,000
Food stamp program	1,038,786,000	379,700,000	988,786,000	−50,000,000	+609,086,000
Food donations programs:					
Needy family programs	24,901,000			−24,901,000	
Elderly feeding program	27,000,000	27,000,000		−27,000,000	−27,000,000
Total, Food and Nutrition Service	1,223,687,000	506,700,000	1,121,786,000	−101,901,000	+615,086,000
Total, Chapter I:					
New budget (obligational) authority	2,208,647,000	507,450,000	1,132,102,000	1,076,545,000	+624,252,000
Appropriations	(1,253,687,000)	(507,450,000)	(1,132,102,000)	(−121,585,000)	(+624,252,000)
Authority to borrow	(954,960,000)			(−954,960,000)	

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

SUMMARY OF COMMITTEE ACTION

The Committee recommends an appropriation of $3,932,540,000. This is $328,294,000 below the supplemental request of $4,260,834,000 and $1,048,240,000 above the House allowance.

The title I request of $2,420,362,000 covers increased program costs in the areas of military personnel, military retired pay, and operation and maintenance, as well as new initiatives in procurement and research and development. These programs are described under the appropriate appropriation account. The Committee recommends $2,115,062,000 in title I, which is $1,011,100,000 above the House allowance and $305,300,000 below the supplemental request.

The cost of the pay raises for military and civilian personnel effective October 1, 1978, requested in title II is $1,840,472,000. The Committee recommendation of $1,817,478,000 is $37,140,000 above the House allowance and $22,994,000 below the budget request.

TITLE I

MILITARY PERSONNEL

The program supplemental request for military personnel totals $132,300,000. This request covers increases in the cost of food served in enlisted dining halls, increases in permanent change of station travel rates, and other miscellaneous program changes that have occurred since passage of the fiscal year 1979 Defense Appropriations Act.

The House approved the budget request as submitted.

The Committee recommends an appropriation of $132,300,000 in this area, the same as the budget request. The Committee recommendation by account, however, is different from the House allowance, as shown in the table below. Absorption available in some of the accounts due to strength shortfalls or revised estimates has been applied against additional costs identified in the Air Force request.

MILITARY PERSONNEL PROGRAM SUPPLEMENTAL

[In thousands of dollars]

	Budget request	House allowance	Committee recommendation	Difference, House allowance and committee recommendation
Military personnel:				
Army	76,200	76,200	56,200	−20,000
Navy	29,200	29,200	28,000	−1,200
Marine Corps	5,800	5,800	900	−4,900
Air Force	14,500	14,500	42,400	+27,900
Reserve personnel:				
Marine Corps	500	500		−500
Air Force	4,100	4,100	2,800	−1,300
National Guard personnel: Army	2,000	2,000	2,000	
Total	132,300	132,300	132,300	0

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

1979 appropriations to date	$10, 139, 838, 000
1979 supplemental estimate	178, 662, 000
House allowance	133, 662, 000
Committee recommendation	128, 662, 000

The Department requested $178,662,000 for military retired pay to cover the additional costs of retired military personnel due to changes in three cost-of-living increases as measured by the consumer price index; the military pay raise of October 1, 1978; increased survivor benefit entitlements enacted during the 95th Congress; and the net effect of strength and rate changes in the retired military population which have occurred since the original appropriation was approved.

The House reduced the request by $45,000,000 based on the actual experience since the preparation of the supplemental estimate. The Committee believes that an additional $5,000,000 of the original supplemental request can be absorbed, and recommends an appropriation of $128,662,000 for this account. This is $50,000,000 below the budget request and $5,000,000 below the House allowance.

OPERATION AND MAINTENANCE

PANAMA CANAL TREATY IMPLEMENTATION

The Committee recommends a supplemental appropriation of $7,200,000 to provide funds for initial implementation costs of the 1978 Panama Canal Treaty.

These funds are required by the Army and Air Force to cover the initial costs of assuming various personnel and base support functions currently performed by the Panama Canal Company and the Canal Zone Government. The functions to be assumed by DOD on October 1, 1979, include operation of medical facilities, elementary and secondary schools, commissaries, law enforcement activities, postal services, laundries, recreation services, communications, and mortuary services. The $7,200,000 in the supplemental will provide for the selective hire and training of civilian personnel, and initial acquisition of equipment and supplies, to prepare for the assumption of the additional functions. Also included are funds for relocation of some activities in the Canal Zone prior to October 1.

BASES IN TURKEY

The Committee recommends a supplemental appropriation of $8,400,000 to provide for restoration of Army and Air Force bases in Turkey to full operating status.

The U.S.-operated radar and intelligence collection sites in Turkey were placed in caretaker status by the Turkish Government in July 1975, as a result of the arms embargo. After the embargo was lifted in September 1978, the Government of Turkey announced that the United States could resume suspended operations. The $8,400,000 requested by DOD will allow the Army and Air Force to achieve full operational capability during fiscal year 1979.

Funds provided will enable replacement of essential equipment, repair parts, fuel, and operation and maintenance of the facilities.

OPERATION AND MAINTENANCE, ARMY

1979 appropriations to date	$9,115,000,000
1979 supplemental estimate	27,200,000
House allowance	
Committee recommendation	16,700,000

The Committee recommends a supplemental appropriation of $16,700,000 to provide for initial implementation costs of the Panama Canal Treaty, restoration of bases in Turkey to full operating status, and increased costs of transporting subsistence items to overseas locations.

The increased transportation costs are based on updated tonnage estimates of troop subsistence shipments to various overseas locations.

The following table summarizes the Committee's recommendation in relation to the DOD supplemental request and the House bill.

OPERATION AND MAINTENANCE, ARMY, PROGRAM SUPPLEMENTAL

[In thousands of dollars]

	Supplemental request	House bill	Committee recommendation	Committee recommendation compared to House bill
Panama Canal Treaty	6,700		6,700	+6,700
Bases in Turkey	2,500		2,500	+2,500
Transportation costs	18,000		7,500	+7,500
Total	27,200		16,700	+16,700

OPERATIONS AND MAINTENANCE, NAVY

1979 appropriations to date	$11,691,000,000
1979 supplemental estimate	36,000,000
House allowance	
Committee recommendation	36,000,000

The Committee recommends a supplemental appropriation of $36,000,000 to provide for initial costs of removing asbestoid material in active Navy ships.

Asbestos-containing materials and products have been widely used in ships just as they have in various industrial applications. Since medical research has recently established a probable causative link between inhalation of asbestos fibers and severe lung diseases, the Navy is concerned about the health hazard associated with the generation of airborne asbestos fibers during removal and repair of asbestos-containing boilers and piping. In addition to improving the working environment for ship maintenance and repair, the investment in removing asbestoid material should improve labor productivity by alleviating the special safety precautions currently required for workers in an asbestos-laden environment.

The $36,000,000 requested for fiscal year 1979 will provide funds for insulation replacement in 2 aircraft carriers and 48 other ships scheduled for induction into overhaul in 1979.

OPERATION AND MAINTENANCE, MARINE CORPS

1979 appropriations to date	$733,000,000
1979 supplemental estimate	----------
House allowance	----------
Committee recommendation	10,500,000

The Committee recommends a supplemental appropriation of $10,500,000 to reduce the growth in the backlog of real property maintenance and repair (BMAR). The Marine Corps' fiscal year 1980 budget shows a growth in the BMAR from $106,000,000 to $117,000,000 in fiscal year 1979. This is contrary to the backlog containment policy expressed in the conference report on the fiscal year 1980 Defense Appropriations Act. The Committee intends that these funds be applied to assure that the backlog at the end of fiscal year 1979 is no greater than $106,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

1979 appropriations to date	$9,243,000,000
1979 supplemental estimate	22,200,000
House allowance	----------
Committee recommendation	[1] 22,200,000

[1] And in addition, $50,000,000 to be derived by transfer from another account.

The Committee recommends a supplemental appropriation of $22,200,000 to provide funds for initial implementation costs of the Panama Canal Treaty, restoration of bases in Turkey to full operating status, and expanded Joint Chiefs of Staff (JCS) sponsored exercises to Korea.

The expanded JCS exercises to Korea are intended to provide a continued demonstration of United States support of the Republic of Korea after the partial withdrawal of permanently assigned ground combat forces from that country. The exercises also provide realistic training in Korea for augmenting forces.

The Committee also recommends that $50,000,000 be transferred from "Aircraft procurement, Air Force, 1977/79" for the purpose of reducing the growth in the backlog of real property maintenance and repair (BMAR). The Air Force has identified these funds as the residual amount available as a result of cancellation of the B–1 procurement. The Air Force fiscal year 1980 budget shows a growth in backlog from $300,000,000 to $350,000,000 in fiscal year 1979. This is contrary to the backlog containment policy expressed in the conference report on the fiscal year 1979 Defense Appropriations Act. The Committee intends that the Air Force apply these funds to assure that the BMAR at the end of fiscal year 1979 is no greater than $300,000,000.

The following table summarizes the Committee's recommendations in relation to the DOD supplemental request and the House bill.

OPERATION AND MAINTENANCE, AIR FORCE, PROGRAM SUPPLEMENTAL

[In thousands of dollars]

	Supplemental request	[illegible]	Committee [illegible]mendation	Committee recommendation compared to House bill
Panama Canal Treaty	500	----	500	+500
Bases in Turkey	5,900	----	5,900	+5,900
JCS exercises	15,800	----	15,800	+15,800
Real property maintenance and repair	----------	-----	50,000	+50,000
Total	22,200	------------	[1] 72,200	[1] +72,200

[1] Includes $50,000,000 transferred from another account.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

1979 appropriations to date	$3,034,000,000
1979 supplemental estimate	2,300,000
House allowance	------------
Committee recommendation	600,000

The Committee recommends a supplemental appropriation of $600,000 to enable the Defense Mapping Agency to hire additional civilian personnel for production of vertical obstruction data in support of the air-launched cruise missile. The amount provided will be sufficient to fund the additional fiscal year 1979 man-years needed, since the hiring schedule has slipped since preparation of the supplemental request by the Department.

PROCUREMENT

MISSILE PROCUREMENT, ARMY

1979 appropriations to date	$736,900,000
1979 supplemental estimate	25,000,000
House allowance	0
Committee recommendation	0

The House provided no funds, a reduction of $25,000,000 under the supplemental request. The Committee recommends concurrence with the House.

The supplemental request included $25,000,000 for improved HAWK missile system operational readiness by providing critical spares and repair parts.

Congress authorized no additional funds for this purpose in fiscal year 1979.

OTHER PROCUREMENT, ARMY

1979 appropriations to date	[1] $1,642,250,000
1979 supplemental estimate	16,900,000
House allowance	0
Committee recommendation	16,900,000

[1] And in addition, $40,000,000 to be derived by transfer from other accounts.

The Committee recommends the full supplemental request of $16,900,000, an increase of $16,900,000 above the House allowance.

The appropriation does not require the review and authorization of the House and Senate Armed Services Committees.

Other support equipment.—The Committee recommends $16,900,000 for combat service support equipment to fill shortages in logistical units designated to support the D-day force. The recommended funds include $8,600,000 for forklifts, $4,000,000 for general purpose tool sets, and $4,300,000 for petroleum products equipment.

WEAPONS PROCUREMENT, NAVY

1979 appropriations to date	$1,995,600,000
1979 supplemental estimate	219,900,000
House allowance	0
Committee recommendation	0

The House provided no funds, a reduction of $219,900,000 under the supplemental request. The Committee recommends concurrence with the House.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request		Authorization conference agreement		Adjustment	
	Quantity	Amount	Quantity	Amount	Quantity	Amount
Phoenix (AIM–54A) missiles	150	$77, 100, 000	150	$58, 800, 000		−$18, 300, 000
Harpoon (AGM–84A) missiles	208	106, 300, 000		59, 000, 000		−47, 300, 000
Spares and repair parts		10, 600, 000				−10, 600, 000
Standard (RIM–66B) missiles	258	25, 900, 000	258	25, 900, 000		

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

The Committee recommends concurrence in the following House reductions:

Item	*Amount*
Phoenix (AIM–54A) missiles	$77, 100, 000
Harpoon (AGM–84A) missiles	106, 300, 000
Spares and repair parts	10, 600, 000
Standard medium-range (RIM–66B) missiles	25, 900, 000

SHIPBUILDING AND CONVERSION, NAVY

1979 appropriations to date	$3, 759, 600, 000
1979 supplemental estimate	725, 700, 000
House allowance	628, 000, 000
Committee recommendation	1, 450, 700, 000

The Committee recommends an additional appropriation of $1,450,700,000. The recommended appropriation is an increase of $725,000,000 above the supplemental request and $822,700,000 over the House allowance.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request		Authorization conference agreement		Adjustment	
	Quantity	Amount	Quantity	Amount	Quantity	Amount
DDG–993 destroyers	2	$628, 000, 000	4	$1, 353, 000, 000	+2	+$725, 000, 000
Cost growth/claims		97, 700, 000		97, 700, 000		

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

DD–993 guided missile destroyer.—The four DD–993 destroyers ordered by Iran have been terminated and are available for U.S. Navy forces. The House provided $628,000,000 to buy two destroyers. The Committee recommends $1,353,000,000 to procure four DDG–993 destroyers, an increase of $725,000,000 above the House allowance.

Cost growth.—The House provided no funds. The Committee recommends $97,700,000 for final settlement of certain shipbuilding claims.

Aircraft Procurement, Air Force

1979 appropriations to date	$6,893,307,000
1979 supplemental estimate	566,100,000
House allowance	[1] 0
Committee recommendation	[1] 20,000,000

[1] And in addition, $80,100,000 to be derived by transfer from another account.

The Committee recommends an additional appropriation of $20,000,000 and $80.100,000 to be derived by transfer from another account. The recommended appropriation is a reduction of $546,100,000 under the supplemental request and an increase of $20,000,000 over the House allowance.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request		Authorization conference agreement		Adjustment	
	Quantity	Amount	Quantity	Amount	Quantity	Amount
F-16 fighter aircraft	55	$425,000,000			−55	−$425,000,000
E-3A NATO AWACS aircraft		85,100,000		$80,100,000		−5,000,000
Modification of aircraft: Civil Reserve Airlift Fleet (CRAF)		21,000,000				−21,000,000
B-52 air inlets (ODS, FRODS)				5,000,000		+5,000,000
Aircraft spares and repair parts: F-16 fighter aircraft		35,000,000				−35,000,000
F-100 engine modules				20,000,000		+20,000,000
Aircraft support equipment and facilities: ALQ-131 ECM pods				20,000,000		+20,000,000

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

The Committee recommends concurrence in the following House changes:

Item	*Amount*
F-16 fighter aircraft (55)	−$425,000,000
E-3A NATO AWACS aircraft	−85,100,000
Transfer of funds	(+80,100,000)
Modification of aircraft: Civil Reserve Airlift Fleet	−21,000,000
Aircraft spares and repair parts: F-16 fighter aircraft	−35,000,000

E-3A NATO AWACS aircraft.—The Committee recommends concurrence with the House action to derive $80,100,000 by transfer from "Aircraft procurement, Air Force, 1977/79" for the contribution of the United States' share of the cost of the acquisition by NATO of an Airborne Early Warning and Control System. Furthermore, the Department of Defense may make a commitment to NATO to assume the U.S. share of contingent liability in connection with the NATO E-3A Cooperative Programme, as authorized by law. The funds are available for obligation until September 30, 1981.

Aircraft spares and repair parts.—The Committee recommends $20,000,000 for F-100 engine modules to improve the readiness posture of the F-15 aircraft program. The House provided no funds for the program.

OTHER PROCUREMENT, AIR FORCE

1979 appropriations to date	[1] $2,382,250,000
1979 supplemental estimate	2,100,000
House allowance	0
Committee recommendation	0

[1] And in addition, $37,000,000 derived by transfer from other accounts.

The House provided no funds, a reduction of $2,100,000 under the supplemental request. The Committee recommends concurrence with the House.

AUTHORIZATION

The appropriation does not require the review and authorization of the House and Senate Armed Services Committees.

The request of $2,100,000 is for the National Foreign Intelligence program.

PROCUREMENT, DEFENSE AGENCIES

1979 appropriations to date	$272,800,000
1979 supplemental estimate	800,000
House allowance	0
Committee recommendation	800,000

The Committee recommends the full supplement request of $800,000, an increase of $800,000 above the House allowance.

AUTHORIZATION

The appropriation does not require the review and authorization of the House and Senate Armed Services Committees.

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

Defense Mapping Agency.—The Committee recommends $800,000 for the procurement of newly developed photographic exploitation equipment needed for the detection and mensuration of vertical obstructions in support of mission planning for the cruise missile. The House provided no funds.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

1979 appropriations to date	$2,635,864,000
1979 supplemental estimate	60,700,000
House allowance	0
Committee recommendation	43,700,000

The Committee recommends an additional appropriation of $43,700,000. This is a reduction of $17,000,000 under the supplemental budget request and an increase of $43,700,000 over the House allowance.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request	Authorization conference agreement	Adjustment
NATO antitank guided missile cooperative development	$18,700,000	$13,700,000	−$5,000,000
Pershing II	42,000,000	30,000,000	−12,000,000

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

The Committee recommends concurrence in the following House reductions:

Item	*Amount*
Nato antitank cooperative development	$5,000,000
Pershing II	12,000,000

NATO antitank guided missile cooperative development.—The House provided no funds. The Committee recommends $13,700,000 to initiate an effort to improve the Army TOW antitank missile in order to meet the projected threat.

Pershing II.—The House provided no funds. The Committee recommends $30,000,000 for Pershing II to accelerate full-scale engineering development of the extended range version of this theater ballistic missile.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

1979 appropriations to date	$4,483,871,000
1979 supplemental estimate	23,000,000
House allowance	20,000,000
Committee recommendation	3,000,000

The Committee recommends an additional appropriation of $3,000,000. This is a reduction of $20,000,000 below the supplemental request and $17,000,000 under the House allowance.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request	Authorization conference agreement	Adjustment
Trident II	$20,000,000		−$20,000,000
Small waterplane area twin hull (SWATH) experimental ship design	3,000,000	$3,000,000	

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

Trident II.—The House allowed $20,000,000 to define interface requirements between Trident II and the U.S. Air Force M–X missile. The authorization conference approved no funds, thus, the Committee recommends deletion of the $20,000,000.

Small waterplane area twin hull (SWATH).—The House provided no funds. The Committee recommends $3,000,000 requested for SWATH ship development to be used to continue feasibility studies and exploration of propulsion concepts. If advance technology development is not begun soon, SWATH will not be considered for such programs as the second buy of T–AGOS surveillance ships.

Research, Development Test, and Evaluation, Air Force

1979 appropriations to date	$4,211,040,000
1979 supplemental estimate	357,800,000
House allowance	190,000,000
Committee recommendation	245,000,000

The Committee recommends an additional appropriation of $245,000,000. This is a reduction of $112,800,000 under the supplemental budget request and an increase of $55,000,000 over the House allowance.

AUTHORIZATION

The following table shows adjustments made by authorizing legislation to the fiscal year 1979 supplemental request:

	Supplemental request	Authorization conference agreement	Adjustment
M-X missile	$190,000,000	$190,000,000	
M-X basing	75,000,000		−$75,000,000
Air launched cruise missile (ALCM) B-52 integration	33,000,000	33,000,000	
B-52 ODS/FRODS	22,000,000	12,000,000	−10,000,000
B-52 SRAM/ALCM test set	19,000,000	10,000,000	−9,000,000
Command and control VLF improvement	8,800,000	8,800,000	
Advanced air launched cruise missile	10,000,000		−10,000,000

RECOMMENDATIONS PURSUANT TO HOUSE ACTION

The Committee recommends concurrence in the following House reductions:

Item	*Amount*
Command and control VLF improvement	$8,800,000
B-52 ODS/FRODS	10,000,000
B-52 SRAM/ALCM test set	9,000,000
Advance air launched cruise missile	10,000,000

M-X missile.—The House provided $190,000,000. The Committee recommends $190,000,000 to accelerate the purchase of tooling and missile subsystems for the ICBM flight test program. It will also accelerate system definition of multiple protective structure basing, including acceleration of the vertical shelter engineering test bed.

Air-launched cruise missile B-52 integration.—The House provided no funds. The Committee recommends $33,000,000 which will bring the ALCM and B-52 integration program schedule into agreement and maintain the current competitive flyoff schedule.

B-52 SRAM/ACLM test set.—The House provided no funds. The Committee recommends $10,000,000 to accelerate development of ground test equipment for the air-launched cruise missile.

VLF communications.—The House provided no funds, and the Committee concurs in the House action. The $8,800,000 requested would initiate VLF improvements aboard bombers and the airborne command post to enhance strategic communication survivability.

B-52 observable difference.—The House provided no funds to provide distinguishing characteristics on cruise missile capable B-52's in order to conform to SALT verification provisions. The Committee recommends concurrence with the House.

Advanced air launched cruise missile.—The House provided no funds, and the Committee concurs in the House action. The $10,000,000 requested would accelerate the development of cruise missile technologies useful in planning a second generation cruise missile.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

1979 appropriation to date	$802,887,000
1979 supplemental estimate	24,000,000
House allowance	0
Committee recommendations	0

The House provided no funds, a reduction of $24,000,000 under the supplemental request. The Committee recommends concurrence with the House.

The supplemental request included $24,000,000 for nuclear monitoring research.

The authorization conference approved no additional funds for this purpose in fiscal year 1979.

GENERAL PROVISIONS

CIVILIAN MARKSMANSHIP PROGRAM

The Civilian Marksmanship program as authorized under sections 4307–4313 of title 10, United States Code, was fully funded for the fiscal year ending September 30, 1979. The Committee has been informed that the Department of Defense and particularly the Department of the Army initiated actions to commence disestablishment of the National Board for the Promotion of Rifle Practice, Office of the Director of Civilian Marksmanship by attrition and the issuance of Reduction in Force (RIF) notices as of June 30, 1979. The Committee believes that this action is contrary to the intent of Congress in providing the funds for fiscal year 1979 and presupposes that the Congress will agree with the administration to disestablish this program in fiscal year 1980. Therefore, the Committee has inserted the following language:

"No part of the funds appropriated for the fiscal year ending September 30, 1979 by this act or any other act may be used to pay for the disestablishment of the National Board for the Promotion of Rifle Practice, Office of the Director of Civilian Marksmanship or any reduction in force of the personnel assigned thereto."

It is the intent of the Committee by this language that the Department of Defense and particularly the Army maintain the National Board for the Promotion of Rifle Practice, Office of the Director of Civilian Marksmanship at the levels provided for in the fiscal year 1979 appropriations.

TITLE II

INCREASED PAY COSTS

1979 appropriations to date	$27,213,228,000
1979 supplemental estimate	1,294,172,000
House allowance	1,254,038,000
Committee recommendation	1,273,078,000

The Committee recommends additional budget authority of $1,273,078,000 to fund the costs of military pay raises now in effect. This amount is $19,040,000 above the House allowance and $21,094,000 below the supplemental request.

The following table summarizes the Committee's recommendations on the military pay raise request with respect to the supplemental request and the House action.

MILITARY PERSONNEL PAY INCREASES

	Supplemental request	House bill	Committee recommendation	Committee recommendation compared to House bill	Committee recommendation compared to supplemental request
Military personnel:					
Army	$440,375,000	$437,448,000	$437,448,000		−$2,927,000
Navy	306,700,000	297,433,000	297,443,000		−9,267,000
Marine Corps	97,425,000	95,525,000	95,525,000		−900,000
Air Force	366,190,000	362,134,000	366,190,000	+$4,065,000	
Reserve personnel:					
Army	18,950,000	9,950,000	13,550,000	+3,600,000	−5,400,000
Navy	8,975,000		4,475,000	+4,475,000	−4,500,000
Marine Corps	3,075,000	3,075,000	3,075,000		
Air Force	7,750,000	7,750,000	7,750,000		
National Guard personnel:					
Army	36,000,000	31,000,000	36,000,000	+5,000,000	
Air Force	8,123,000	8,123,000	10,023,000	+1,900,000	+1,900,000
Total	1,294,172,000	1,254,038,000	1,273,078,000	+19,040,000	−21,094,000

The Committee recommendations are only slightly different from the amounts appropriated by the House. The Committee recommends the full budget request for the Air Force pay supplemental. Increases in permanent change of station tariff rates preclude any absorption of the pay raise request by the Air Force. In the case of the Army and Navy Reserve and the Army National Guard, the latest available indicators point to an improvement in the average strength levels of these components. This results in a corresponding decrease in the amount of the pay supplemental request which these components can absorb. The increase of $1,900,000 above the budget request in the Air National Guard is offset by a similar decrease in the request for civilian pay raises in the "Operation and maintenance, Air National Guard" request. This transfer is necessary due to higher than anticipated average military strength offset by a lower than expected average civilian strength.

CIVILIAN PERSONNEL PAY INCREASES

1979 appropriations to date	$17,944,000,000
1979 supplemental estimate	546,300,000
House allowance	526,300,000
Committee recommendation	544,400,000

The Committee recommends a supplemental appropriation of $544,400,000 to provide for pay raises for direct hire civilian employees of the Department of Defense. This is $1,900,000 less than the budget request and $18,100,000 more than the House allowance.

The following table summarizes the Committee's recommendations in relation to the DOD supplemental request and the House bill.

CIVILIAN PERSONNEL PAY INCREASES

[In thousands of dollars]

	Supplemental request	House bill	Committee recommendation	Committee recommendation compared to House bill
Operation and maintenance:				
Army	174,200	174,200	174,200	------------
Navy	128,200	128,200	128,200	------------
Marine	2,800	2,800	2,800	------------
Air Force	97,900	97,900	97,900	------------
Defense agencies	102,200	82,200	102,200	+20,000
Army Reserve	3,400	3,400	3,400	------------
Air Force Reserve	8,600	8,600	8,600	------------
Army National Guard	9,700	9,700	9,700	------------
Air National Guard	19,200	19,200	17,300	−1,900
National Board for Promotion of Rifle Practice	10	10	10	------------
Court of Military Appeals	90	90	90	------------
Total	546,300	526,300	544,400	+18,100

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION CIVILIAN PAY RAISES

The Committee concurs in the action of the House which provides that pay raises for civilians funded by the "Research, development, test, and evaluation" appropriation can be absorbed to the maximum extent possible, with amounts not absorbed being covered by transfer of available funds from other appropriations. Such transfer of funds would be treated as a notification reprograming. The House bill contains a general provision to allow transfers for this purpose.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER II					
DEPARTMENT OF DEFENSE—MILITARY					
MILITARY PERSONNEL					
Military personnel, Army	$76,200,000	$76,200,000	$56,200,000	−$20,000,000	−$20,000,000
Military personnel, Navy	29,200,000	29,200,000	28,000,000	−1,200,000	−1,200,000
Military personnel, Marine Corps	5,800,000	5,800,000	900,000	−4,900,000	−4,900,000
Military personnel, Air Force	14,500,000	14,500,000	42,400,000	+27,900,000	+27,900,000
Reserve personnel, Marine Corps	500,000	500,000		−500,000	−500,000
Reserve personnel, Air Force	4,100,000	4,100,000	2,800,000	−1,300,000	−1,300,000
National Guard personnel, Army	2,000,000	2,000,000	2,000,000		
Total, military personnel	132,300,000	132,300,000	132,300,000		
RETIRED MILITARY PERSONNEL					
Retired pay, Defense	178,662,000	133,662,000	128,662,000	−50,000,000	−5,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
OPERATION AND MAINTENANCE					
Operation and maintenance, Army	$27, 200, 000		$16, 700, 000	−$10, 500, 000	+$16, 700, 000
Operation and maintenance, Navy	36, 000, 000		36, 000, 000		+36, 000, 000
Operation and maintenance, Marine Corps			10, 500, 000	+10, 500, 000	+10, 500, 000
Operation and maintenance, Air Force	22, 200, 000		22, 200, 000		+22, 200, 000
Transfer from other account			(50, 000, 000)	(+50, 000, 000)	(+50, 000, 000)
Operation and maintenance, Defense agencies	2, 000, 000		600, 000	−1, 400, 000	+600, 000
Total, operation and maintenance	87, 400, 000		86, 000, 000	−1, 400, 000	+86, 000, 000
Transfer from other account			(50, 000, 000)	(+50, 000, 000)	(+50, 000, 000)

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PROCUREMENT					
Missile procurement, Army	25,000,000			−25,000,000	
Other procurement, Army	16,900,000		16,900,000		+16,900,000
Weapons procurement, Navy	219,900,000		−546,100,000	−219,900,000	
Shipbuilding and conversion, Navy	725,700,000	628,000,000	1,450,700,000	+725,000,000	+822,700,000
Aircraft procurement, Air Force	566,100,000		20,000,000	−546,100,000	+20,000,000
Transfer from other account		(80,100,000)	(80,100,000)	(+80,100,000)	
Other procurement, Air Force	2,100,000			−2,100,000	
Procurement, defense agencies	800,000		800,000		+800,000
Total, procurement	1,556,500,000	628,000,000	1,488,400,000	−68,100,000	+860,400,000
Transfer from other account		(80,100,000)	(80,100,000)	(+80,100,000)	
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION					
Research, development, test, and evaluation, Army	60,700,000		43,700,000	−17,000,000	+43,700,000
Research, development, test, and evaluation, Navy	23,000,000	20,000,000	3,000,000	−20,000,000	−17,000,000
Research, development, test, and evaluation, Air Force	357,800,000	190,000,000	233,000,000	−124,800,000	+43,000,000
Research, development, test, and evaluation, Defense agencies	24,000,000			−24,000,000	
Total, research, development, test, and evaluation	465,500,000	210,000,000	279,700,000	−185,800,000	+69,700,000
Total, chapter II: New budget (obligational) authority	2,420,362,000	1,103,962,000	2,115,062,000	−305,300,000	+1,011,100,000
Transfer from other account		(80,100,000)	(130,100,000)	(+130,100,000)	(+50,000,000)

CHAPTER III

Energy and Water Development

DEPARTMENT OF ENERGY

Energy, Science and Defense Activities

OPERATING EXPENSES

1979 appropriations to date	$4,818,431,000
1979 supplemental estimate	45,350,000
House allowance	12,800,000
Committee recommendation	12,800,000

The Committee recommends an appropriation of $12,800,000, the same as the President's request and House allowance, to fund the testing of two nuclear warheads—Minuteman III and Poseidon—which are vital components of the Nation's strategic deterrent. The warheads will be tested in their stockpiled configuration to provide additional assurance of stockpile reliability. The Department indicated that these tests should be initiated as promptly as possible to allow the results to be considered in connection with any decisions on a possible comprehensive test ban treaty.

The Committee agrees with the House action deferring consideration of the request for $11,050,000 to expand the Department's program in solar market development and training. Planning for this effort is in very preliminary stages and an effective effort could not be initiated before fiscal year 1980. Accordingly, the Committee will consider funding for this effort along with other solar programs and departmental activities in the fiscal year 1980 bill.

The Department's request of $21,500,000 for additional contractual services was obviated by a reprograming at a lower level.

OFFICE OF THE INSPECTOR GENERAL

The Department of Energy Inspector General advised the Congress of critical staffing problems in his 1979 annual report. The Department had informed the Congress last year that the Office would have a staff ceiling of 120 persons and would move to 155 people when that ceiling was reached. In fact the Department cut the ceiling to 100 persons during this period. The current ceiling represents a decrease of 35 percent from the figures given the Congress in March, 1978. During this same period other audit groups within the Department were increased by 11 percent. The Inspector General concluded in his report that these staffing shortages are now prohibiting him from launching investigative initiatives.

The Committee believes that the Department should give the office the same authority and flexibility in hiring personnel as other statutorily created inspector general offices. Further, the Committee directs that 16 additional positions and not less than $50,000 be earmarked solely for operations of the Inspector General's office for the rest of fiscal year 1979. The Committee is of the opinion that these resources are already specifically included within the funds appropriated for the Department.

PLANT AND CAPITAL EQUIPMENT

1979 appropriations to date	$1,067,971,000
1979 supplemental estimate	42,000,000
House allowance	23,500,000
Committee recommendation	23,500,000

The Committee recommends a supplemental appropriation of $23,500,000, the same as the House allowance, to continue funding for project 71–9, fire, safety and adequacy of operating conditions. The additional funds will permit continued construction of the new plutonium and waste treatment facility at Rocky Flats, Colo., offsetting higher project costs. This project is about 90-percent complete and represents a substantial operational and safety improvement over existing facilities.

The Department also requested $10,000,000 for various small retrofit projects to reduce energy consumption in DOE facilities. The request for this effort will be considered along with other competing programs for funding in the 1980 appropriation.

FEDERAL ENERGY REGULATORY COMMISSION

1979 appropriations to date	$51,200,000
1979 supplemental estimate	10,600,000
House allowance	----------
Committee recommendation	2,700,000

A supplemental appropriation of $2,700,000 is recommended for the Federal Energy Regulatory Commission, a reduction of $7,900,000 from the budget request submitted this past January.

These additional funds are to enable a more efficient implementation by the Commission of requirements and responsibilities under the National Energy Act—particularly the Natural Gas Policy Act and the other sections for which the Commission is primarily responsible. By utilizing contractual services and assistance to help the Commission in meeting the statutory deadlines and requirements, additional manpower resources for the Commission can be reduced and present staff will not have to be diverted from other required functions and activities. The bulk of the funds allowed is for the contractual assistance with the remainder for other implementation and compliance activities and related costs.

The Committee has not provided any funds to pay expenses of intervenors in the Commission's regulatory or adjudicatory proceedings, and strongly recommends a provision included in the bill to prohibit the use of any funds made available to the Commission to pay or otherwise compensate intervenors.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

1979 appropriations to date	$795,500,000
1979 supplemental estimate	21,000,000
House allowance	21,000,000
Committee recommendation	21,000,000

The Committee recommends a supplemental appropriation of $21,000,000, the same as the budget request and House allowance, for operation and maintenance requirements of the Corps of Engineers. The funds are required to accomplish extraordinary maintenance dredging of navigation channels as a result of severe storms and floods in the Southwest, Midwest, and Southern United States in recent weeks. The additional funding request cannot be absorbed within available operation and maintenance funds without adverse impacts on other operation and maintenance requirements.

FLOOD CONTROL AND COASTAL EMERGENCIES

1979 appropriations to date	$20,000,000
1979 supplemental estimate	106,000,000
House allowance	106,000,000
Committee recommendation	106,000,000

A supplemental appropriation of $106,000,000 is recommended by the Committee for flood control and coastal emergency activities. This is the same as the House allowance and budget request.

At the beginning of fiscal year 1979, $41,200,000 was available for emergencies, consisting of $20,000,000 appropriated in fiscal year 1979 and $21,200,000 in carryover funds from fiscal year 1978. These funds are fully committed on recent flood-fighting activities and repair work. The supplemental request would provide funds for emergency operations, preparedness, repairs and rehabilitation of flood-control works, necessitated by floods in the Southwest, Midwest, and Southern United States. The Corps of Engineers estimates additional fiscal year 1979 requirements of $86,000,000. The budget request also includes $20,000,000 to replenish the emergency fund.

INCREASED PAY COSTS

The fiscal year 1979 increased pay costs for the Corps of Engineers civil works program totals $37,400,000 of which $18,400,000 was to be absorbed. An amount of $10,000,000 is required for pay costs under the Construction, General appropriation account, all to be absorbed. However, the latest information developed by the Committee is that, by absorbing the pay raise in the Construction, General account, the Corps would be forced to defer contract payments in September or not award scheduled construction contracts. Therefore, the Committee recommends the $10,000,000 for increased pay costs which was proposed to be absorbed.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

COLORADO RIVER BASIN PROJECT

1979 appropriations to date	$74,770,000
1979 supplemental estimate	[1] (20,000,000)
House allowance	[1] (20,000,000)
Committee recommendation	[1] (20,000,000)

[1] By transfer.

The Committee concurs with the House in providing the full supplemental request for an appropriation of $20,000,000 for the Colorado River Basin project, $5,000,000 to be derived by transfer from the construction and rehabilitation appropriation and $15,000,000 by transfer from funds previously appropriated for liquidation of contract authority.

The transfer will permit maintenance of an orderly construction schedule and timely completion of the Central Arizona project. The funds are required to pay 1979 contractor costs which are in excess of previous estimates and are a result of contractors doing work which had fallen behind schedule in previous years.

GENERAL ADMINISTRATIVE EXPENSES

1979 appropriations to date	$25,250,000
1979 supplemental estimate	[1] (1,900,000)
House allowance	[1] (1,900,000)
Committee recommendation	[1] (1,900,000)

[1] By transfer.

A supplemental appropriation of $1,900,000, to be derived by transfer, is recommended by the Committee. This is the same as the House allowance and the supplemental budget request.

The funds are required to enable the Bureau of Reclamation to prepare an environmental impact statement (EIS) on the proposed rules and regulations for acreage limitation. The statement is being prepared to comply with a December 7, 1977, order from the U.S. District Court for the Eastern District of California restraining the Secretary of the Interior from proceeding with rulemaking until an EIS on the proposed rules has been completed. The EIS will address the impacts of the changes in procedures followed in administering the acreage limitation provisions of Reclamation law that would result from the proposed rules.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

(FUNDS APPROPRIATED TO THE PRESIDENT)

1979 appropriations to date	$368,700,000
1979 supplemental estimate	
House allowance	[1] (10,000,000)
Committee recommendation	[1] (10,000,000)

[1] By transfer.

The Committee concurs with the House action in approving the transfer of $10,000,000 to the Appalachian Regional Commission from funds previously appropriated to the Corps of Engineers.

The 1979 Appropriation Act contained $10,000,000 for the Corps of Engineers for the Big Sandy River, Tug and Levisa Forks, and Cumberland River, snagging, clearing, channelization and dredging project in Kentucky and West Virginia. These funds were provided to continue an emergency program of stream rehabilitation undertaken by the Corps of Engineers under an agreement with the Appalachian Regional Commission. In order to carry out this important work expeditiously, it is necessary that these previously appropriated funds be transferred to the Commission.

NUCLEAR REGULATORY COMMISSION

The Committee concurs with the House Committee (Report No. 96-227) in recommending 100 additional positions for the Nuclear Reactor Regulatory program, to be available solely for the purpose of continuing to license nuclear plant construction and operation, funded from within available resources for fiscal year 1979. The reason for this action is clearly stated by the House Committee in its report, as follows:

> The Nuclear Regulatory Commission has diverted about 100 technical personnel from their regular licensing functions to priority tasks associated with an evaluation of the Three-Mile Island incident. As a result, licensing activities for the plants now under construction could be delayed significantly unless additional experienced personnel are made available immediately to the Nuclear Reactor Regulatory program.
>
> Recognizing the time required to recruit and train additional personnel, the Committee directs the Commission to take immediate steps to provide additional personnel for the nuclear reactor regulatory program by a combination of shifting manpower resources from other programs and obtaining assistance, on a temporary basis, from other agencies while the recruitment and training of additional NRR personnel proceeds.
>
> Given the critical role nuclear power can and must play in meeting the Nation's energy needs, the Committee believes that the Nuclear Reactor Regulatory program should have all the resources necessary to insure safe operation of existing nuclear power plants and to continue licensing activities without unnecessary delays. The availability of power from nuclear plants now planned and under construction is critically needed in many regions of the country to meet power requirements in those areas. Delays in plant construction can cost up to $1,000,000 a day in added costs to the consumers and directly impact our need for foreign oil.

In agreeing with the House directive. this Committee intends that there be no detrimental impact on the Commission's other important responsibilities carried out by other program offices in shifting manpower resources to the Nuclear Reactor Regulatory program.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

1979 appropriations to date	$12,681,000
1979 supplemental estimate	49,186,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends a supplemental appropriation of $2,000,000 to initiate the Upper Mississippi River System Master Plan.

Public Law 95–502 authorized replacement of locks and dam 26, and directs the Upper Mississippi River Basin Commission to prepare a comprehensive master plan for the management of the upper Mississippi River system. The master plan will identify the social, economic, recreation, and environmental objectives of the region and propose ways of meeting these objectives and to determine whether or not a second lock is compatible with that plan.

The Committee understands that the proposed total Federal cost to develop the comprehensive master plan for the upper Mississippi River region is estimated to be around $12,000,000. Further, other Federal agencies have conducted various studies costing in the tens of millions of dollars to investigate various environmental, navigation, transportation, and related regional impacts.

Therefore, the Committee directs that the Commission and Water Resources Council take those actions necessary to insure that the development of the Upper Mississippi River System Master Plan does not duplicate work completed or currently underway within other Federal agencies.

In execution of Public Law 95–502 by the Upper Mississippi River Basin Commission, the Committee assumes that consultation with and review by the U.S. Water Resources Council will be included in the preparation of plans and procedures, and their revisions, for conduct of the study. Further, the Committee is concerned that funding for this study be distributed and used in such a fashion as to assure maximum study input by participants. Therefore, study funds are to be distributed through definitive work agreements between the Chairman, Upper Mississippi River Basin Commission, and each study participant. The Committee understands that such agreement procedures have been used successfully by the Water Resources Council and other studies.

The Committee agrees with the House action in denying the budget request of $186,000 to initiate the independent water project review function as well as the request of $47,000,000 for the planning grants to States program as these programs lack sufficient authorization.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER III					
DEPARTMENT OF ENERGY					
ENERGY, SCIENCE AND DEFENSE ACTIVITIES					
Operating expenses	$45,350,000	$12,800,000	$12,800,000	−$32,550,000	
Plant and capital equipment	42,000,000	23,500,000	23,500,000	−18,500,000	
Total, Energy, science and defense activities	87,350,000	36,300,000	36,300,000	−51,050,000	
Federal Energy Regulatory Commission	10,600,000		2,700,000	−7,900,000	+$2,700,000
Total, Department of Energy	97,950,000	36,300,000	39,000,000	−58,950,000	+2,700,000
DEPARTMENT OF DEFENSE—CIVIL					
DEPARTMENT OF THE ARMY					
CORPS OF ENGINEERS—CIVIL					
Operation and maintenance, general	21,000,000	21,000,000	21,000,000		
Flood control and coastal emergencies	106,000,000	106,000,000	106,000,000		
Total, Corps of Engineers—Civil	127,000,000	127,000,000	127,000,000		

DEPARTMENT OF THE INTERIOR					
BUREAU OF RECLAMATION					
Colorado River Basin project (by transfer)	($20,000,000)	($20,000,000)	($20,000,000)		
General administrative expenses (by transfer)	(1,900,000)	(1,900,000)	(1,900,000)		
Total, Department of the Interior (by transfer)	(21,900,000)	(21,900,000)	(21,900,000)		
INDEPENDENT AGENCIES					
FUNDS APPROPRIATED TO THE PRESIDENT					
Appalachian regional development programs (by transfer)		(10,000,000)	(10,000,000)	(+$10,000,000)	
WATER RESOURCES COUNCIL					
Water resources planning	49,186,000	2,000,000	2,000,000	−47,186,000	
Total, chapter III:					
New budget (obligational) authority	274,136,000	165,300,000	168,000,000	−106,136,000	+$2,700,000
By transfer	(21,900,000)	(31,900,000)	(31,900,000)	(+10,000,000)	

CHAPTER IV

FOREIGN OPERATIONS AND RELATED AGENCIES

FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

1979 appropriations to date	$24,820,000
1979 supplemental estimate	856,000
House allowance	856,000
Committee recommendation	856,000

The 1973 amendments to the Foreign Assistance Act of 1961 (Public Law 93–189) authorized the participation of certain employees of the Agency for International Development in the Foreign Service retirement and disability system. Subsequent enactment of new or more generous benefits, including salary increases, has increased the unfunded liability for the Agency for International Development's Foreign Service employees.

Accordingly, the Committee recommends the appropriation of the full amount, as requested, to cover this unfunded liability. An additional annual funding requirement will be considered as part of the President's fiscal year 1980 budget request.

ECONOMIC SUPPORT FUND (TURKEY)

1979 appropriations to date	$50,000,000
1979 supplemental estimate	100,000,000
House allowance	100,000,000
Committee recommendation	100,000,000

The Committee recommends the appropriation of $100,000,000, the full amount requested by the President for supplemental funding of economic support fund assistance to Turkey.

Turkey's internal economic situation continues to deteriorate and it faces a critical shortage of foreign exchange. The Government of Turkey, in cooperation with the International Monetary Fund, has begun to take the necessary measures to restore economic equilibrium. Nonetheless, even with this stabilization effort, it will take time and substantial amounts of external assistance to right the Turkish economy. The United States has thus far provided a $50,000,000 fiscal year 1979 loan in support of this stabilization program.

The administration now proposes to provide Turkey with an additional $100,000,000 loan repayable over 20 years, including a 5-year grace period on repayments of principal, with a 5-percent interest rate. The loan will take the form of a cash transfer which will enable rapid disbursement and assure maximum flexibility to meet the balance-of-payments crisis.

The United States will not be alone in its efforts to help this NATO ally. In January, other friendly governments agreed to organize a multilateral emergency assistance effort, subject to satisfactory Turkish Government measures of economic stabilization and reform. Turkey has begun that program and it is believed that this additional contribution from the United States, together with increased amounts of assistance from other donors, will give the multilateral effort the momentum it will need, if it is to succeed.

In recommending the appropriation of the amount requested by the President, the Committee urges the administration to redouble its efforts to achieve equitable burdensharing by securing increased contributions from other donor governments.

MILITARY ASSISTANCE PROGRAM (REAPPROPRIATION)

1979 appropriations to date	$127,000,000
1979 supplemental estimate	33,000,000
House allowance	22,500,000
Committee recommendation	27,500,000

The Committee recommends the reappropriation of $27,500,000 in unobligated balances of prior-year appropriations for military assistance. Although the President's initial request was for the reappropriation of $33,000,000, the Committee was informed in our February 27, 1979, hearing that a detailed review of prior-year military assistance programs resulted in a reduced estimated requirement.

The Foreign Assistance and Related Programs Appropriations Act of 1979 (Public Law 95-481) imposed a ceiling of $210,375,000 on the total amount of funds which may be obligated for military assistance. The purpose of the present supplemental request is, therefore, to raise that ceiling to $237,875,000. Most of the funds which would be made available by raising the ceiling would be used to support programs in the Eastern Mediterranean, an area which has become of increasing strategic importance to the United States.

The Committee would like to call to the attention of the Senate the fact that the ceiling on fiscal year 1979 MAP funding was established at the initiative of the Senate Appropriations Committee. We believed—and we were supported by the Comptroller General of the United States—that such a ceiling was necessary to comport with the requirements of the Congressional Budget Act of 1974. We further believed that the ceiling would have a salutary effect on budgetary and accounting procedures for MAP programs and this has indeed proven to be the case.

The Committee, therefore, believes that the ceiling on fiscal year 1979 MAP funding ought to be retained. However, in consideration of the program requirements which have been justified to the Committee, we believe that the ceiling should now be raised to $237,875,000. Accordingly, the Committee recommends the reappropriation of an additional $27,500,000 of unobligated balances of prior-year funds for the fiscal year 1979 Military Assistance Program.

APPROPRIATIONS IN SUPPORT OF THE EGYPTIAN-ISRAELI PEACE TREATY

ECONOMIC SUPPORT FUND

(ASSISTANCE TO EGYPT)

1979 appropriations to date	$750,000,000
1979 supplemental estimate	300,000,000
House allowance	300,000,000
Committee recommendation	300,000,000

RELOCATION OF MILITARY FACILITIES IN ISRAEL

1979 appropriations to date	None
1979 supplemental estimate	800,000,000
House allowance	800,000,000
Committee recommendation	800,000,000

FOREIGN MILITARY CREDIT SALES

1979 appropriations to date	[1] 654,500,000
1979 supplemental estimate	370,000,000
House allowance	370,000,000
Committee recommendation	370,000,000

[1] Of this amount, $550,000,000 was made available only for Israel.

The President has placed before the Congress a request for extraordinary assistance in support of the recently concluded Treaty of Peace between Egypt and Israel. The total request is $1,470,000,000 and is composed of the following parts: $300,000,000 in additional economic support fund assistance for Egypt, $800,000,000 for the construction of airbases in Israel, and $370,000,000 to finance a total of $2,200,000,000 in foreign military credit sales for Israel and $1,500,000,000 in foreign military credit sales for Egypt.

As is well known, a cardinal factor in the negotiations which led to the Peace Treaty between Egypt and Israel was the President's pledge to consider and seek congressional approval of Israel's request for extraordinary assistance to finance the direct costs of relocating Israeli airbases from the Sinai to the Negev in Israel, as well as other Israeli relocation costs and some upgrading of Israel's force structure. In addition, it is now clear that the President's pledge of additional economic assistance and military sales credits for Egypt was of considerable importance in moving Egypt to sign the treaty. This pledge of assistance on behalf of the American people, this uncommon act, which gave to both sides the sense of security and steadfast American friendship, was in no small measure what made the Treaty of Peace possible.

The Committee is well aware of the unprecedented magnitude of the proposed assistance and we recognize that some will point to the seeming paradox that this Peace Treaty is followed by an increase in arms credits to the signatories. It is true that the amount of assistance is unprecedented, but it is equally true that cost of another war between Egypt and Israel would have economic and human costs which are painful even to contemplate. It is true that there is an apparent paradox, but Israel has given much in the search for peace and we believe Israel ought to be assisted in its efforts to adjust to the new security environment. Egypt, which increasingly stands alone in the Arab world, faces new threats to her borders, threats which Egypt has courageously faced in her commitment to peace.

The Committee believes that the provision of this assistance is of critical importance to the implementation of the Peace Treaty and will give added impetus to the continuing search for a comprehensive peace settlement. We urge the Senate to appropriate the full amount requested by the President.

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

1979 appropriations to date	$95,000,000
1979 supplemental estimate	4,400,000
House allowance	3,221,000
Committee recommendation	3,480,000

The Committee recommends the appropriation of $3,480,000 in fiscal year 1979 supplemental funding for the Peace Corps. This amount represents a $920,000 reduction from the budget estimate of $4,400,000, but it is $259,000 more than the House allowance.

The supplemental appropriation of $4,400,000 requested by the President last January was primarily intended to meet increased costs resulting from unforeseen inflation overseas and significant dollar devaluation. Since the President submitted his request, however, the value of the dollar has stabilized and, indeed, has enjoyed a significant appreciation in relation to some foreign currencies. The need for a supplemental to offset the weakness of the dollar is, therefore, less than anticipated.

Furthermore, through a reprograming action, dated March 1, 1979, the Peace Corps provided increased funding for program support to offset increased costs abroad while postponing until fiscal year 1980 $920,000 earmarked for skilled/trained volunteer contracts for the 3rd and 4th quarters of fiscal year 1979. While the Peace Corps had indicated that enactment of the supplemental request by late spring would lead to the restoration of these training activities, the delayed enactment of the supplemental will reduce the opportunity to provide additional training in fiscal year 1979.

These two factors have led the Committee to conclude that under present circumstances the President's request for supplemental funding is in excess of actual need and the Committee has recommended an appropriate reduction. The Committee does not intend that the reduction it has recommended should be applied to training activities. We believe that a portion of the reduction can be absorbed as a result of the increased strength of the dollar and that a portion can be absorbed through the postponement of vehicle procurement. While the Committee understands that the March 1, 1979, reprograming may well have forced the cancellation of certain training activities scheduled for the 3rd quarter of fiscal year 1979, we expect the Peace Corps to make every effort to make up for the trainee shortfall in the final quarter of the current fiscal year.

DEPARTMENT OF STATE

Migration and Refugee Assistance

1979 appropriations to date	$111, 544, 200
1979 supplemental estimate	104, 910, 000
House allowance	104, 910, 000
Committee recommendation	103, 035, 000

The President has requested the appropriation of $104,910,000 in fiscal year 1979 supplemental funding of migration and refugee assistance. This amount, if approved by the Congress, would bring the total of fiscal year 1979 migration and refugee assistance funding to $216,454,200. This extraordinary increase in funding for migration and refugee assistance—$59,354,000 was appropriated for these programs in fiscal year 1978—reflects the geometric increases which have occurred in the number of refugees over the past 18 months.

The Soviet Union has liberalized its policies on exit visas and thousands of Soviet Jews are now allowed to leave each month. The expected flow of refugees from the Soviet Union is now expected to exceed 36,000 in fiscal year 1979. By any standard, this is a dramatic increase over previous years and it has brought with it an increasing burden and financial problems to the several private and voluntary organizations—PVO'S—which are involved in the care, maintenance, and resettlement of refugees under the United States Refugee Program. Without immediate and direct financial relief many of these PVO's will be brought to the brink of bankruptcy.

A second and larger wave of refugees is now flowing from Indochina. The oppressive regimes which seized power in 1975 have shocked the conscience of the world with their increasingly harsh policies and actions. Thousands, in desperation born of fear and repression, have clambered aboard dilapidated ships and leaky boats to flee to freedom. Others, under the stealth of darkness, have crossed over into Thailand where some 150,000 are now gathered in refugee camps awaiting resettlement. In Indochina, the floodgates of repression have opened and hundreds of thousands of refugees have spilled into the outside world. But, the outside world is now closing in on them. Countries of first asylum are now facing overwhelming burdens and have, in some instances, turned away from their shores those who have sought refuge and safe haven. In the refugee camps the dimensions of human suffering can only be recorded in terms of infamy.

Because of the clear and undeniable need for additional refugee assistance, this Committee recommends the appropriation of all but $1,875,000 of the President's request. This minimal reduction is occasioned by the fact that a $1,875,000 drawdown of the United States Emergency Refugee and Migration Assistance Fund has already been used to provide initial relief of those pressures which the President seeks to address in his request for supplemental funding of the regular program.

The Committee recommends the appropriation of $103,035,000 in fiscal year 1979 supplemental funding of the migration and refugee assistance program.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

1979 appropriations to date	$9,500,000
1979 supplemental estimate	10,000,000
House allowance	10,000,000
Committee recommendation	7,500,000

The Committee recommends the appropriation of $7,500,000 for the United States Emergency Refugee and Migration Assistance Fund.

The Emergency Assistance Fund was established by Public Law 94-141 to provide a means of financing the U.S. response to emergency refugee and migration assistance needs on a case-by-case basis. However, unprecedented requirements for refugee assistance have resulted in the total expenditure of funds available for emergencies.

The Committee believes that the appropriation of $7,500,000 for the emergency fund at this time will provide adequate funding for emergency requirements which may occur during the remainder of this fiscal year. The Committee notes that recent drawdowns of the emergency fund have been used to meet extraordinary funding requirements for Indochinese and Eastern European refugee assistance. In view of the amount recommended by the Committee for supplemental fiscal year 1979 funding of migration and refugee assistance, it is unlikely that the emergency fund will have to be used to meet additional requirements for these programs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER IV					
FOREIGN OPERATIONS					
FUNDS APPROPRIATED TO THE PRESIDENT					
Payment to the Foreign Service retirement and disability fund	$856,000	$856,000	$856,000		
Economic support fund:					
Turkey	100,000,000	100,000,000	100,000,000		
Egypt	300,000,000	300,000,000	300,000,000		
Military assistance program (reappropriation)	33,000,000	22,500,000	27,500,000	−$5,500,000	+$5,000,000
Assistance for relocation of facilities in Israel	800,000,000	800,000,000	800,000,000		
Foreign military credit sales	370,000,000	370,000,000	370,000,000		
Total, funds appropriated to the President	1,603,856,000	1,593,356,000	1,598,356,000	−5,500,000	+5,000,000
INDEPENDENT AGENCY					
ACTION—INTERNATIONAL PROGRAMS					
Peace Corps	4,400,000	3,221,000	3,480,000	−920,000	+250,000
DEPARTMENT OF STATE					
Migration and refugee assistance	104,910,000	104,910,000	103,035,000	−1,875,000	−1,875,000
U.S. emergency refugee and migration assistance fund	10,000,000	10,000,000	7,500,000	−2,500,000	−2,500,000
Total, Department of State	114,910,000	114,910,000	110,535,000	−4,375,000	−4,375,000
Total, chapter IV:					
New budget (obligational) authority	1,723,166,000	1,711,487,000	1,712,371,000	−10,795,000	+884,000
Appropriations	(1,690,166,000)	(1,688,987,000)	(1,684,871,000)	(−5,295,000)	(−4,116,000)
Reappropriation	(33,000,000)	(22,500,000)	(27,500,000)	(−5,500,000)	(+5,000,000)

CHAPTER V

HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM

1979 appropriations to date	----------
1979 supplemental estimate	$15,000,000
House allowance	5,000,000
Committee recommendation	5,000,000

The Committee concurs with the House in recommending a supplemental appropriation of $5,000,000 for the Department of Housing and Urban Development's neighborhood self-help development program. The amount proposed is $10,000,000 below the budget request.

Although $5,000,000 was made available to demonstrate this approach in fiscal year 1978 from community development block grant discretionary funds, the funding recommended would establish the program as a separate entity at the Department, as authorized by title VII of the Housing and Community Development Amendments of 1978 (Public Law 95–557).

The Neighborhood Self-Help Development Act authorizes the Department to provide grants and other forms of assistance to neighborhood organizations to enable such organizations to undertake housing, economic development, and community development projects in deteriorating low- and moderate-income neighborhoods. These neighborhood self-help projects are designed to involve the local residents directly and to maximize the use of non-Federal resources.

The amount provided would allow the Department to award approximately 40 grants to qualified neighborhood organizations to prepare and implement neighborhood housing, economic or community development projects and to provide technical assistance, training and information dissemination to neighborhood organizations.

The Committee has recommended an initial appropriation of $5,000,000 in recognition of the fact that only 4 months remain in fiscal year 1979 and the Department has requested $15,000,000 in 1980 for a full year's operations. However, the Committee suggests that additional support be made available from the Secretary's discretionary fund for this program in the current fiscal year if this added support can be effectively utilized.

LIVABLE CITIES PROGRAM

1979 appropriations to date	----------
1979 supplemental estimate	$5,000,000
House allowance	----------
Committee recommendation	----------

The Committee concurs with the House in recommending no supplemental funding for the initiation of a new livable cities program in fiscal year 1979. The budget request was for $5,000,000.

The Livable Cities Act of 1978, title VIII of the Housing and Community Development Amendments of 1978 (Public Law 95-557), authorizes the Secretary to provide grants or enter into contracts with nonprofit organizations to enable them to undertake or support projects which have substantial artistic, cultural, historical or design merit and contribute to neighborhood revitalization. The Secretary, in consultation with the National Endowment for the Arts (NEA), would approve programs for neighborhood and community-based arts, urban design, user needs design and the encouragement of the preservation of historic or other structures which have neighborhood or community significance.

The supplemental budget requested by the Department would have built on the experience of a 1978 joint HUD–NEA demonstration program by providing funding for approximately 100 grants and contracts to nonprofit organizations in fiscal year 1979. Also, a portion of these funds would have been used to provide information, training, consultation and other forms of technical assistance to nonprofit organizations to encourage and facilitate their participation in this new program.

The Committee believes that funds can be made available for worthwhile cultural and artistic initiatives from existing programs administered by HUD and NEA, including the community development program. In a year of great budget stringency, the Committee questions the wisdom of initiating yet another categorical program for the arts.

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

1979 appropriations to date	[1] $192,105,000
1979 supplemental estimate	[2] 200,000,000
House allowance	194,000,000
Committee recommendation	194,000,000

[1] Reflects transfer of $7,895,000 to the Hazard Mitigation and Disaster Assistance account of the Federal Emergency Management Agency.

[2] Requested in House Document 96–113.

The Committee recommends a supplemental appropriation of $194,000,000 for disaster relief in fiscal year 1979 for emergency relief programs in Presidentially declared disasters and emergencies. This amount is $6,000,000 less than the budget estimate and the same as the House allowance.

Federal disaster relief is a nationwide program operated pursuant to the Disaster Relief Act of 1974 (P.L. 93-288). Supplementary assistance is provided to individuals, businesses, and State and local governments in the event of a Presidentially declared emergency or major disaster. Additionally, funds may be made available directly to a State, or to Federal agencies as reimbursement for expenditures in disaster relief work performed under this authority. Reorganization Plan No. 3 of 1978 delegated to the newly created Federal Emergency Management Agency (FEMA) the responsibility for managing the disaster relief program.

The amount recommended by the Committee should be sufficient to deal with major spring disasters due to torrential rains and record tornadoes in Arkansas, Texas, Oklahoma, Mississippi, Alabama, Tennessee, Missouri, North Dakota, Minnesota, Illinois, Louisiana, and Florida. Storm-induced damage in Mississippi alone will cost an estimated $151,800,000. Although part of the costs of these disasters will be paid for from funds previously appropriated for fiscal year 1979, the amount approved by the Committee is essential to cover total estimated costs.

The Committee's recommended cut of $6,000,000 represents the 3 percent of the $200,000,000 request that normally would be set aside for administrative expenses. The Committee concurs in the judgment of the House that the $7,895,000 currently available for administrative expenses should be sufficient to administer the program in 1979.

INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

1979 appropriations to date	$40,000,000
1979 supplemental estimate	2,190,000
House allowance	2,190,000
Committee recommendation	2,190,000

The Committee recommends a supplemental appropriation of $2,190,000 to cover additional costs incurred by the Consumer Product Safety Commission in the implementation of the Emergency Interim Consumer Product Safety Standard Act of 1978 (Public Law 95–319). This amount is identical to the budget estimate and the House allowance.

Public Law 95–319 is designed to protect the American consumer from flammable and corrosive cellulose insulation and provides for the establishment of an interim mandatory safety standard for cellulose insulation manufactured for use as a consumer product. In response to the growing public concern over the potential flammability and corrosion hazards posed by home insulation materials, the Commission was delegated certain responsibilities under the act to address this concern. The supplemental appropriation provided by the Committee should allow the Commission to meet those statutory obligations. The funds recommended by the Committee will be used primarily for contracts and to restore dollars reprogramed from the Commission's ongoing activities to meet the mandates contained in Public Law 95–319. Because the funds will not be appropriated until quite late in the current fiscal year the Committee concurs with the House in making the funds available for 2 years.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

1979 appropriations to date	$3,292,200,000
1979 supplemental estimate	185,000,000
House allowance	185,000,000
Committee recommendation	185,000,000

The Committee concurs with the House in recommending a supplemental appropriation of $185,000,000 to meet additional funding requirements for the National Aeronautics and Space Administration's space shuttle program. This amount is identical to both the budget estimate and the House allowance. The amount recommended by the Committee, when added to the $1,443,300,000 already appropriated for the shuttle in fiscal 1979, would bring total shuttle program appropriations for fiscal year 1979 to $1,628,300,000.

The shuttle is a key element of a versatile space transportation system developed by NASA that will provide a variety of national and international users with round trip access to space beginning in the 1980's. The shuttle will be the first reusable space vehicle and is designed to carry scientific, defense-related, and technological payloads of various sizes to and from low Earth orbit. The shuttle consists of a reusable manned orbiter with three liquid oxygen/liquid hydrogen main engines, two reusable solid rocket boosters, and an expendable liquid propellant tank called the external tank.

The supplemental funds recommended by the Committee will allow NASA to address technical problems encountered in development, manufacturing and testing of shuttle systems; the need for design changes and weight reductions; and the requirement of prime contractors and subcontractors for increased engineering and manufacturing effort to fabricate hardware and conduct test activities. Hardware schedule delays, increased engineering and manufacturing requirements in prime and subcontractor efforts, and significant deferrals of work content have occurred as a result of development problems, program changes, and the need for more work than was previously planned, particularly in the fabrication and assembly of flight and test hardware and in systems qualification and certification. According to NASA, an additional $61,500,000 will be needed to address problems and design changes associated with Orbiter 102: $48,000,000 for test problems connected with the main engine: $27,100,000 for technical design changes in the external tank; $36,700,000 for subsystem alterations to the solid rocket booster: and $19,500,000 to cover deferrals of work from 1978 into 1979 for launch and landing activities. These amounts will be offset by a $7,800,000 cut in spares and equipment associated with the shuttle.

The Committee is deeply concerned over a continuing sharp escalation in shuttle costs but recognizes that the Government is committed to an operational shuttle system at the earliest possible date and at the least possible expense. In view of the fact that approximately $7,400,000,000 will have been appropriated for the shuttle by the end of fiscal year 1979 and further funding induced delays will add substantially to shuttle costs, the Committee believes that it has no alternative to the approval of the supplemental request.

National Commission on Air Quality

SALARIES AND EXPENSES

The Committee recommends language in the bill which would allow the National Commission on Air Quality to spend $45,000 for necessary travel in fiscal year 1979 as requested by the Commission. The amount provided is $10,000 greater than the House recommendation.

The Committee also recommends the addition of language to the bill, as passed by the House, which would allow the Commission to use these funds to reimburse employees who have paid for official travel out of their own pockets pending the availability of the funds in question.

Without congressional approval of the recommended language, the Commission would be unable to spend any of its funds for travel in the current fiscal year due to section 401 of Public Law 95–392, which limits travel expenses to amounts specified in appropriations budget estimates. This language effectively prohibits the Commission from spending funds on travel because, through an oversight in its budget submission for fiscal year 1979, the Commission did not request any travel funding for the current year.

In view of the fact that the timing of the supplemental will make these funds available only for the last quarter of the current fiscal year, the House recommended a reduction of $10,000 in the Commission's request. However, information subsequently presented to the Committee indicated that such a cut would make it necessary for the Commission to curtail its activities in the remainder of the current fiscal year. Given the fact that the Commission is supposed to present a final report to the Congress by August 7, 1980, the Committee feels that it would be unwise at this time to curtail Commission travel activities by denying the requested amount.

NATIONAL CONSUMER COOPERATIVE BANK

The National Consumer Cooperative Bank was created by the National Consumer Cooperative Bank Act (Public Law 95–351) to make sound loans at market rates of interest to consumer cooperatives in a variety of fields. Cooperatives are user-owned organizations established to secure for their members the advantages of cooperative action in producing, marketing, or purchasing goods or in providing services to members. The Bank is a mixed ownership Government corporation that will be governed by a Presidentially appointed 13-member board of directors consisting of officers of agencies of the U.S. Government, and representatives of the general public with experience in the cooperative field. Capitalization of the Bank will initially be provided by the Secretary of the Treasury through the purchase of class A stock. The employees of the Bank will be paid with appropriated funds and are subject to Government personnel policies until the Bank generates sufficient income from lending to pay its own expenses.

The Office of Self-Help Development and Technical Assistance was created to administer the Consumer Cooperative Bank's Self-Help Development Fund and its technical assistance program. The Office serves as the development arm of the Bank and and helps to foster the creation and growth of cooperatives, especially among low-income persons.

SALARIES AND EXPENSES

1979 appropriations to date	----------
1979 supplemental estimate	[1] $4,000,000
House allowance	1,500,000
Committee recommendation	1,500,000

[1] Includes $2,000,000 for operational and administrative expenses of the Office of Self-Help Development and Technical Assistance requested under the "Self-help development and technical assistance" account.

The Committee concurs with the House in recommending a total supplemental appropriation of $1,500,000 for the salaries and expenses of the National Consumer Cooperative Bank and the operational and administrative expenses of the Office of Self-Help Development and Technical Assistance. This amount is $2,500,000 less than the combined budget request for these two accounts.

The appropriation recommended by the Committee will cover the Bank's start-up costs including the costs of establishing and maintaining a staff of loan officers and a small group of specialists to handle such things as appraisal of real property; collateral arrangements; collections and renegotiations; and records keeping. It would also cover support services such as policymaking by the Board of Directors; the mandatory appeals process; legal counseling and contracts work; financial planning and budgeting; accounting and cash management; data processing; personnel management; contracts approval and monitoring; and sundry other administrative services.

The amount provided by the Committee will also be used to administer the Bank's self-help development fund and conduct its technical assistance program. The activities of the Office of Self-Help Development and Technical Assistance include hiring and training staff; planning and implementing a program of capital investment advances; and planning and implementing a program of technical assistance, training, education, research and information.

The Committee concurs with the House reduction of $2,500,000 in the budget request for these activities in recognition of the fact that the funds will not be available until the last quarter of fiscal year 1979. The Committee believes that a scaled down appropriation is particularly advisable in view of the fact that the President has not as yet nominated the board of directors and the Bank, as a consequence, has not begun to organize itself.

SELF-HELP DEVELOPMENT FUND

1979 appropriations to date	------------
1979 supplemental estimate	[1] $10,000,000
House allowance	3,000,000
Committee recommendation	------------

[1] Excludes request of $2,000,000 for the Office of Self-Help Development and Technical Assistance considered in the salaries and expenses appropriation.

The Committee recommends that no funds be provided for the capitalization of the Self-Help Development Fund in the National Consumer Cooperative Bank in fiscal year 1979 as compared with a budget request of $10,000,000 and a House allowance of $3,000,000.

The Self-Help Development Fund will provide capital advances to eligible cooperatives which are unable to secure sufficient funding from other sources, such as the National Consumer Cooperative Bank's regular lending program. The Fund will be used to make repayable interest bearing capital investment advances to these cooperatives and thus enable newly formed consumer and producer cooperatives to initiate, expand, or otherwise improve their operations. Many of the capital advances made by the Fund will go to cooperatives or projects serving predominantly low-income consumers and producers.

Although the Committee has recognized the importance of establishing the Fund by providing for initial staffing expenditures, the

Committee believes that it is unrealistic to expect the Fund to make advances to cooperatives in the current fiscal year. The Self-Help Director has not as yet been appointed by the President and it is not likely that Fund policies and regulations can be in place before the end of the fiscal year.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

1979 appropriations to date	$7,045,000
1979 supplemental estimate	1,735,000
House allowance	600,000
Committee recommendation	600,000

The Committee concurs with the House in recommending an appropriation of $600,000 to enhance the computer capability of the Selective Service System in fiscal year 1979. This amount is $1,135,000 less than the budget estimate.

Although the supplemental appropriation requested by the administration would have allowed the expansion of the Selective Service System's field structure from the current 6 region configuration to the 10 standard Federal regions, the Committee believes that in the absence of a commitment to some form of registration, such an expansion is premature.

Funds provided by the Committee for enhanced computer support will be used by the agency to begin development of essential elements of an automated data system plan in its effort to meet Department of Defense manpower mobilization through the use of the Emergency Military Manpower Procurement System. A truly effective computer system could create the groundwork for extremely rapid registration without the need for substantial and expensive staffing increases. The Congressional Budget Office has estimated that mass registration could be accomplished and the first draftee delivered within 1 month by using computerized Internal Revenue Service files.

DEPARTMENT OF THE TREASURY

INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK

1979 appropriations to date	----------
1979 supplemental estimate	$40,000,000
House allowance	8,000,000
Committee recommendation	----------

The Committee recommends that no support be provided in fiscal year 1979 for the initial capitalization of the National Consumer Cooperative Bank as compared with a budget request of $40,000,000 and a House allowance of $8,000,000.

A revolving fund has been established to receive expenditure transfers from the Department of the Treasury in exchange for class A stock and paid-in capital. Loans to the Bank will be disbursed from this revolving fund. The amount requested is for purchase of class A stock by the Treasury Department. The National Consumer Cooperative Bank will redeem the Treasury's class A stock over time using capital accumulated from retained earnings and from the sale of stock to cooperatives. When all the class A stock has been redeemed, the Bank will continue operations as a private Bank owned and controlled by cooperatives. Loans will be made from the Bank fund for a variety of consumer-owned endeavors, including housing, food and other retailing, health care, day care, small scale energy production and distribution, and auto repairs. A number of producer-owned activities, such as handicrafts, will also be handled through loans from the Bank fund.

Although the Committee has recognized the importance of establishing the Bank by providing for initial staffing expenditures, the Committee believes that it is unrealistic to expect the Bank to make loans to cooperatives in the current fiscal year. The members of the Board have not as yet been appointed by the President and it is not likely that Bank policies and regulations can be in place before the end of the fiscal year.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

1979 appropriations to date	$9,577,300,000
1979 supplemental estimate	1,129,400,000
House allowance	1,129,400,000
Committee recommendation	1,129,400,000

The Committee recommends a supplemental appropriation of $1,129,400,000 to meet additional Veterans Administration compensation and pension requirements in fiscal year 1979. This amount is identical to the budget estimate and the House allowance.

The supplemental appropriation recommended by the Committee would provide the funds required to implement the Veterans Disability Compensation and Survivors Benefits Act of 1978 (Public Law 95-479) and the Veterans and Survivors Pension Improvement Act of 1978 (Public Law 95-588).

The Veterans Disability Compensation and Survivors Benefits Act of 1978 increased compensation benefits to disabled veterans, their dependents and dependency and indemnity compensation (DIC) spouses and children by 7.3 percent. The act also extended the allowance for dependents benefits to veterans rated 30 percent and 40 percent disabled. The prior cut-off point for the allowance was 50 percent disabled. In addition, this act increased the clothing allowance provided eligible veterans, and the burial and service connected death allowances for survivors of deceased veterans. A total of $590,600,000 of the amount recommended by the Committee will be used to implement this legislation.

The Veterans and Survivors Pension Improvement Act of 1978 reformed the pension program at the VA, providing automatic annual cost-of-living increases comparable to annual social security increases for those pensioners in the improved program and to parents receiving dependency and indemnity compensation while considering total family income in determining benefits. The cost of implementing this legislation is estimated to be $538,800,000.

It should be noted that this is an entitlement program. Thus, the Committee is required to recommend the amount estimated to be necessary to pay compensation and pension benefits authorized for veterans and their dependents.

READJUSTMENT BENEFITS

1979 appropriations to date	$2,144,000,000
1979 supplemental estimate	301,700,000
House allowance	301,700,000
Committee recommendation	301,700,000

A supplemental appropriation of $301,700,000 is recommended by the Committee to cover increased readjustment benefits costs incurred during fiscal year 1979 by the Veterans Administration. This amount is identical to both the budget estimate and the level of funding recommended by the House.

The bulk of the amount recommended, a total of $268,400,000, is required because the amount of unobligated readjustment benefit dollars brought forward into the current fiscal year is less than originally projected. The appropriation of an additional $26,400,000 is necessary because of a shortfall in the amount of benefit overpayments the VA initially expected to collect. The remaining $6,900,000 is needed to implement legislation increasing the hourly rate of pay under the work-study program, raising the maximum housing grant from $25,000 to $30,000 and increasing the maximum grant for an automobile or other conveyance from $3,300 to $3,800.

Veterans are entitled to the benefits provided through this appropriation. Consequently, the Committee is required to make available the amounts necessary to carry forward the purposes of the enabling legislation and has no discretion in funding this account. However, the Committee is disturbed by the failure of the VA to collect overpayments at the rate initially projected, which has added substantially to the cost of the program.

GENERAL OPERATING EXPENSES

1979 appropriations to date	$615,964,000
1979 supplemental estimate	[1] 3,091,000
House allowance	3,091,000
Committee recommendation	3,091,000

[1] Requested in House Document 96–41 as amended by House Document 96–130.

The Committee concurs with the House in recommending a supplemental appropriation of $3,091,000 for additional general operating expenses, to enable the Department of Veterans Benefits to carry out the provisions of the Veterans and Survivors Pension Improvements Act of 1978; the Veterans Disability Compensation and Survivors Benefits Act of 1978; and the Veterans Housing Benefits Act of 1978. The amount proposed is identical to the revised budget estimate.

The recommended amount will permit an average employment increase of 295 positions for the adjudication of claims arising out of the aforementioned legislation. An additional 122 positions will be funded to handle the administrative and financial burdens imposed by these recently enacted legislative changes.

The original budget request as submitted by the administration on January 22 was for $7,257,000, but this was subsequently amended downward to reflect a later than originally expected enactment date for the supplemental appropriation.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

1979 appropriations to date	$47, 437, 000
1979 supplemental estimate	57, 468, 000
House allowance	57, 468, 000
Committee recommendation	57, 468, 000

The Committee concurs with the House in recommending the appropriation of $57,468,000 to cover commitments to existing grantees under the VA's assistance for health manpower training institutions program. This amount is the same as the budget estimate.

The funds provided will be used to establish five new State medical schools to be located in proximity to, and operated in conjunction with, VA hospitals; to allow existing medical schools affiliated with the VA to expand and improve their training capacities; and to assist other health manpower institutions affiliated with the VA in the coordination, improvement, and expansion of the training of professional, technical, allied health, and paramedical personnel.

Under provisions of the Veterans Administration Programs Extension Act of 1978, the amount recommended by the Committee will be used to cover the costs of all grants through fiscal year 1983. Of the $57,468,000 recommended in the bill, $32,415,000 will be used to fund commitments to new State medical schools for fiscal years 1981–83 and the balance of $25,053,000 will be used to provide support to affiliated medical schools and other health manpower training institutions in fiscal years 1980–81. A listing of new medical schools receiving support under this supplemental appropriation follows:

Wright State University	$1, 090, 000
University of South Carolina	6, 629, 000
Texas A&M	4, 955, 000
Marshall University	3, 587, 000
East Tennessee State University	16, 154, 000

The Committee directs VA to provide additional support to the maximum extent possible from currently available funds for an increase in the total square footage of the planned East Tennessee State University College of Medicine from 84,000 square feet to at least 115,000 square feet, in accordance with previous VA square footage commitments. The Committee further directs VA to submit a fiscal year 1980 supplemental budget request with the necessary draft authorization legislation to the Office of Management and Budget for an amount which would permit the funding of a 115,000 square foot facility at East Tennessee.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

1979 appropriations to date	
1979 supplemental estimate	[1] $500, 000
House allowance	500, 000
Committee recommendation	500, 000

[1] Requested in House Document 96–41 as amended by House Document 96–130.

The Committee recommends that $500,000 be provided for additional grants to the Republic of the Philippines in fiscal year 1979. The administration proposed, and the House approved, an identical amount.

These funds will be used to provide grants for the Republic of the Philippines for payment of hospital care, medical services, or nursing home care for eligible Commonwealth Army Veterans and for Philippine Scouts in the Veterans Memorial Medical Center or by contract, as prescribed by the Administrator of Veterans Affairs. The medical center was constructed and equipped with Federal dollars. It was turned over to the Philippine Government in 1955. Although the program was intended to be temporary when it was first authorized in 1948, it was extended every 5 years thereafter. In September of 1966 the program was expanded to include medical care for nonservice-connected illnesses.

The Committee understands that the provision of these funds was anticipated in our negotiations with the Philippines for an amendment of our Military Bases Agreement with that country. At the same time the Committee has been informed that the Administration is committed to the transfer of financial responsibility for the program to the Philippine Government by September 30, 1981.

CORPORATIONS

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE EXPENSES

1979 appropriations to date	($17,793,000)
1979 supplemental estimate	(313,000)
House allowance	(50,000)
Committee recommendation	(50,000)

The Committee concurs with the House in recommending an increase in the limitation on the administrative expenses of the Federal Home Loan Bank Board of $50,000, which is $263,000 below the budget estimate.

The proposed funding would permit the Bank Board's Office of Community Investment to continue its expansion by adding 10 personnel to its current staff of 17. Over the past year the Office has been working with the savings and loan industry to encourage community investment efforts through a comprehensive strategy of regulation, enforcement, legislation, incentives and technical assistance. The linchpin of this effort is the Board's $10,000,000,000 Community Investment Fund which makes $2,000,000,000 a year available in the form of specially priced advances through the 12 district home loan banks to member financial institutions mounting creative efforts to stimulate revitalization and development in their communities.

The Committee has concurred with the House in making reductions in travel and personnel costs based on a reestimate of need in view of the lateness of this appropriation. The Committee has also agreed with the House recommendation that funds should not be allowed for special studies of neighborhood risk perception and prepurchase counseling in view of the extensive work that is already being supported in these areas.

The $50,000 limitation increase recommended in the bill will be financed by assessments against the Federal home loan banks and the Federal Savings and Loan Insurance Corporation.

INCREASED PAY COSTS—TITLE II

The Committee considered estimates of $160,378,000 in new budget authority for fiscal year 1979 for increased pay costs for the Department of Housing and Urban Development and other agencies. Reductions of $66,137,000 were made in various accounts on the basis of the most recent information available regarding funding needs and lapse rates. This total cutback is $9,676,000 below the House reductions. The changes in the House figures are:

1. A decrease of $10,000,000 in medical care pay costs based on a decrease of $16,683,000 in the estimated rate of obligations in this account between March 31 and April 30.
2. An increase of $312,000 for the American Battle Monuments Commission as requested in House Document 96–132. The funds are required for the care and maintenance of American cemeteries overseas because of sharp losses in dollar exchange rates with various foreign countries over the past few months.
3. An increase of $12,000 for the Office of Consumer Affairs, allowing the full amount requested by the administration, in view of the very substantial budgetary problems created by a lower than anticipated rate of personnel attrition.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Requested in H. Doc. 96-41 as amended by	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate Committee recommendation compared with— (+ or −)	
					Budget estimates	House bill
	CHAPTER V					
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
	NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION					
	Neighborhood self-help development program	$15,000,000	$5,000,000	$5,000,000	−$10,000,000	
	Livable cities program	5,000,000			−5,000,000	
	Total, Department of Housing and Urban Development	20,000,000	5,000,000	5,000,000	−15,000,000	
	FUNDS APPROPRIATED TO THE PRESIDENT					
96-113	Disaster relief	200,000,000	194,000,000	194,000,000	−6,000,000	
	INDEPENDENT AGENCIES					
	CONSUMER PRODUCT SAFETY COMMISSION					
	Salaries and expenses	2,190,000	2,190,000	2,190,000		
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION					
	Research and development	185,000,000	185,000,000	185,000,000		
	NATIONAL CONSUMER COOPERATIVE BANK					
	Salaries and expenses	4,000,000	1,500,000	1,500,000	−2,500,000	
	Self-help development and technical assistance	10,000,000	3,000,000		−10,000,000	−$3,000,000
	Total, National Consumer Cooperative Bank	14,000,000	4,500,000	1,500,000	−12,500,000	−3,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

	SELECTIVE SERVICE SYSTEM					
	Salaries and expenses	$1,735,000	$600,000	$600,000	−$1,135,000	
	DEPARTMENT OF THE TREASURY					
	Investment in National Consumer Cooperative Bank	40,000,000	8,000,000		−40,000,000	−$8,000,000
	VETERANS ADMINISTRATION					
	Compensation and pensions	1,129,400,000	1,129,400,000	1,129,400,000		
	Readjustment benefits	301,700,000	301,700,000	301,700,000		
96-130	General operating expenses	3,091,000	3,091,000	3,091,000		
	Assistance for health manpower training institutions	57,468,000	57,468,000	57,468,000		
96-130	Grants to the Republic of the Philippines	500,000	500,000	500,000		
	Total, Veterans Administration	1,492,159,000	1,492,159,000	1,492,159,000		
	CORPORATIONS					
	FEDERAL HOME LOAN BANK BOARD					
	Limitation on administrative expenses	(313,000)	(50,000)	(50,000)	(−263,000)	
	Total, Chapter V:					
	New budget (obligational) authority	1,955,084,000	1,891,449,000	1,880,449,000	−74,635,000	−11,000,000
	Limitation	(313,000)	(50,000)	(50,000)	(−263,000)	

CHAPTER VI

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

1979 appropriations to date	$286,853,000
1979 supplemental estimates	[1] 55,850,000
House allowance	44,850,000
Committee recommendation	55,850,000

[1] Includes $11,000,000 in H. Doc. 96–145 and not considered by the House.

The Committee recommends an appropriation of $55,850,000, the same as the budget estimate and $11,000,000 over the House allowance. Of the total allowance, $11,000,000 is for outer continental shelf environmental studies, as proposed in a supplemental budget estimate that arrived too late for House consideration. The studies, most of them in offshore Alaska areas, are to meet data needs identified in regional studies conducted earlier this year. Supplemental funding is required to begin work immediately on the special studies and avoid delays in the OCS oil and gas leasing schedules. These special studies are the outgrowth of revisions in OCS baseline studies and monitoring policies. The allowance will fund 12 additional positions and will remain available for obligation through fiscal 1980.

The balance of the recommended appropriation, $44,850,000, will cover actual and estimated costs of fire suppression and emergency rehabilitation on public domain lands. The allowance includes a $12,000,000 obligation carried over from fiscal 1978.

HERITAGE CONSERVATION AND RECREATION SERVICE

URBAN PARK AND RECREATION FUND

1979 appropriations to date	————
1979 supplemental estimates	$37,500,000
House allowance	20,000,000
Committee recommendation	20,000,000

The Committee recommends an appropriation of $20,000,000, in agreement with the House allowance and $17,500,000 below the budget estimate, to implement a recently authorized urban recreation grant program. The allowance, including up to $800,000 for administrative expenses, will be more than enough to finance initial grants in the remaining months of the fiscal year to renovate and improve deteriorated city parks and recreation facilities. Language included in the bill authorizes the transfer of $250,000 to the agency's salaries and expenses account to repay funds reprogramed earlier for start-up work on this new program.

LAND AND WATER CONSERVATION FUND

The Committee is aware that the land acquisition program for the Buffalo National River has come to a standstill for lack of adequate funding in the current fiscal year. Although $4,000,000 is programed in fiscal 1980, the Committee believes substantial savings in escalating land costs could be achieved by making more funding available immediately. The Committee is also aware that some unobligated appropriations are still available to the National Park Service from the Land and Water Conservation Fund. Accordingly, the Department should promptly prepare for Committee approval a reprograming proposal to provide an additional $3,000,000 for Buffalo National River land purchases in the current fiscal year.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

1979 appropriations to date	$380, 079, 000
1979 supplemental estimates	1, 727, 000
House allowance	1, 727, 000
Committee recommendation	1, 727, 000

The Committee recommends an appropriation of $1,727,000, the same as the budget estimate and House allowance, to pay actual firefighting and emergency presuppression costs for fiscal 1978 in the national park system. This allowance supplements $3,450,000 provided in the regular appropriation for fiscal 1978.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

1979 appropriations to date	$409, 095, 000
1979 supplemental estimates	1, 700, 000
House allowance	----------
Committee recommendation	----------

In agreement with the House, no appropriation is recommended for the budget estimate of $1,700,000. This amount was provided earlier through a Committee-approved reprograming to implement Natural Gas Policy Act requirements as they apply to oil and gas leases on Federal and Indian lands.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

1979 appropriations to date	$53, 944, 000
1979 supplemental estimates	2, 241, 000
House allowance	----------
Committee recommendation	----------

The Committee recommends no appropriation in response to the budget estimate of $2,241,000, in agreement with the House. Appropriations available to the Department should be sufficient to cover costs of mine plan reviews and related work on Federal leases. Further, the Committee questions whether yet another agency should become involved in Federal mineral leasing. The Geological Survey has been performing this kind of work in the past. This matter should be resolved in the fiscal 1980 appropriation.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

1979 appropriations to date	$774, 752, 000
1979 supplemental estimates	7, 000, 000
House allowance	7, 000, 000
Committee recommendation	7, 000, 000

The Committee recommends an appropriation of $7,000,000, the same as the budget estimate and House allowance, to cover actual and estimated costs of fire suppression on Indian lands. This supplements $800,000 provided in the regular fiscal 1979 appropriation and finances $990,000 in actual expenses to date and $6,810,000 in projected costs for the upcoming fire season.

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

1979 appropriations to date	$52, 023, 000
1979 supplemental estimates	1, 419, 000
House allowance	1, 419, 000
Committee recommendation	23, 312, 000

The Committee recommends an appropriation of $23,312,000, increasing the budget estimate and House allowance by $21,893,000. This allowance includes $3,312,000 for inflation adjustment grants to the Government of the Northern Mariana Islands and $20,000,000 in assistance to the Government of the Virgin Islands as authorized by Public Law 95-348.

An increase of $1,893,000 is recommended in grants to the Northern Marianas to cover authorized inflation adjustments for the 1979 fiscal year as well as the $1,419,000 budget for 1978. Funding both years in the supplemental will make these adjustments more timely, a practice now endorsed by the Administration. An amount equal to the recommended increase will be deducted from the fiscal year 1980 appropriation request.

The $20,000,000 recommended for the Virgin Islands will cover the government's operating deficit in the current fiscal year. The Committee has included language in the bill limiting the grants to the actual deficit and requiring an agreement for repayment of the assistance should certain Federal excise tax payments on petroleum products be paid to the Virgin Islands under a pending court suit.

OFFICE OF THE SECRETARY

DEPARTMENTAL MANAGEMENT

1979 appropriations to date	$42, 200, 000
1979 supplemental estimates	200, 000
House allowance	----------
Committee recommendation	----------

The Committee agrees with the House in recommending no appropriation of the requested $200,000 to support the Endangered Species Review Committee. Costs can be absorbed within available appropriations for the limited activities of the committee in the current fiscal year.

RELATED AGENCIES

Department of Agriculture

Forest Service

FOREST PROTECTION AND UTILIZATION

1979 appropriations to date	$845, 518, 000
1979 supplemental estimates	60, 000, 000
House allowance	60, 000, 000
Committee recommendation	57, 245, 000

The Committee recommends an appropriation of $57,245,000, reducing the budget estimate and House allowance by $2,755,000.

This appropriation, supplementing the base funding of $4,275,000, is to cover estimated firefighting costs for fiscal 1979. The estimate is based entirely on an average of costs incurred for fire suppression and emergency rehabilitation in the past 5 years.

Beginning in 1979 the Committee recommended full funding in the regular appropriation for the Service's permanent, ongoing fire protection program. There should be no further need to budget for compensation of permanent positions in the supplemental request now devoted exclusively to suppression expenses. Accordingly, the Committee has deleted funds covering pay and benefits for permanent positions.

Department of Energy

ENERGY PRODUCTION, DEMONSTRATION, AND DISTRIBUTION

1979 appropriations to date	$171, 465, 000
1979 supplemental estimates	3, 000, 000
House allowance	----------
Committee recommendation	----------

The Committee, in agreement with the House, does not recommend appropriating the $3,000,000 requested for contractual studies involving energy leasing and coal policies. Available funds and personnel should be more than adequate to address these needs for the balance of the current fiscal year.

This supplemental request includes $1,000,000 to support a Federal leasing program although most of the activities attributed to it—developing bidding systems and diligence requirements, fostering competition, and overseeing Federal royalty interests—are already being conducted by the Department of Interior. Further, the Federal leasing program has not been specifically budgeted and justified to the Committee although the Department has allocated $1,196,000 and 38 positions to it for the current fiscal year. The Committee will need to review the entire program and its budget needs in the context of the fiscal 1980 appropriation before approving additional funding.

The balance of $2,000,000 was requested to implement studies on performance and competition in the coal industry and on a national coal policy as required by the Fuels Use Act. Both studies involve other Federal agencies and considerable resources are already available for fiscal 1979. Additional needs can be addressed in the fiscal 1980 appropriation.

ENERGY CONSERVATION

1979 appropriations to date	$830, 404, 000
1979 supplemental estimates	43, 025, 000
House allowance	------------
Committee recommendation	1, 200, 000

The Committee recommends an appropriation of $1,200,000, reducing the budget estimate by $41,825,000. There was no House allowance.

Approved funding is directed to the appliance standards program, for which $3,825,000 was requested. The Committee allowance will support scheduled completion of the first nine appliance standards before November of 1980 and an additional four standards by November of 1981 under mandatory provisions of the National Energy Conservation Policy Act.

In agreement with the House, the following requests are not recommended for appropriation:

Residential Conservation Service, $6,700,000; Supplementary State conservation grants, $10,000,000; and local government buildings grants, $22,500,000.

Funds previously appropriated to the Economic Regulatory Administration should be sufficient to support the Residential Conservation Service for the remainder of the fiscal year since regulations and other program implementation work will not be complete until September at the earliest.

The Committee could not justify additional appropriations for State and local conservation grants since most of the funds available at the beginning of the fiscal year are still not obligated. Any unmet needs should be addressed in the fiscal 1980 budget.

ECONOMIC REGULATORY ADMINISTRATION

1979 appropriations to date	$90, 633, 000
1979 supplemental estimates	42, 100, 000
House allowance	5, 600, 000
Committee recommendation	8, 400, 000

The Committee recommends an appropriation of $8,400,000, a reduction of $33,700,000 below the budget and an increase of $2,800,000 over the House allowance. The recommendation includes $5,600,000, a reduction of $4,200,000, to continue intensive audits of 15 major refiners. Funds reprogramed earlier in the fiscal year to permit immediate action on these audits will revert to their original purpose, to provide grants to utility regulatory commissions.

Also included is $2,800,000 of the $7,200,000 requested for the coal utilization program. For the balance of fiscal 1979, these funds should be adequate to meet additional responsibilities imposed by the Fuels Use Act.

The Committee recommendation deletes requests of $24,600,000 for preimplementation of the Administration's gasoline rationing plan and $500,000 for two studies authorized by the Public Utility Regulatory Policies Act of 1978. The studies should be funded from existing appropriations.

The Committee was prepared to recommend additional funding for the Office of Hearings and Appeals because of dramatic caseload increases caused by the latest motor fuel shortages. This office, which adjudicates challenges to ERA regulatory activities, has been averaging 135 submissions a day instead of the projected 36 per week. Based on the Department's assurances that adequate funding is available within ERA to handle this unexpected load, the Committee has not recommended additional appropriations. However, the Committee fully expects the Department to provide the necessary resources—funds and positions—to assure timely action on motor fuel allocations and any appeals rising from them. A prompt reprograming request should be submitted to the Committee to achieve this objective. Further, the Department should exercise its full authority to ensure that no inordinate reserves of crude oil are accumulated by industry during the current shortage of motor fuels and lack of heating oil stocks.

ENERGY INFORMATION ADMINISTRATION

1979 appropriations to date	$63, 386, 000
1979 supplemental estimates	14, 780, 000
House allowance	----------
Committee recommendation	2, 000, 000

The Committee recommends an appropriation of $2,000,000, reducing the budget estimate by $12,780,000. There was no House allowance. The recommended allowance will support gathering additional data in response to the Natural Gas Policy Act of 1978. The $7,220,000 reduction in the request for this data collection and analysis reflects the estimated need for the remainder of the fiscal year. The $4.060,000 requested for data validation and $1,500,000 for a report to Congress under section 747 of the Fuels Use Act are not provided. The report, which focuses on converting small combustors from petroleum and natural gas to alternative fuels, can be accomplished within existing appropriations.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

1979 appropriations to date	$96, 302, 000
1979 supplemental estimates	350, 000
House allowance	200, 000
Committee recommendation	200, 000

The Committee recommends an appropriation of $200,000. a reduction of $150,000 in the budget estimate and the same as the House allowance. This is initial funding for Smithsonian acquisition of the Museum of African Art, as authorized by Public Law 95–414. It should be more than enough to cover operating costs of the museum for the remaining months of fiscal 1979.

Approval of this appropriation does not necessarily constitute Committee approval of the full operating budget for the museum that includes 30 permanent positions. Operating needs of the museum will be determined in Committee recommendations on the full-year budget for fiscal 1980.

RESTORATION AND RENOVATION OF BUILDINGS

1979 appropriations to date	$2,100,000
1979 supplemental estimates	300,000
House allowance	--------
Committee recommendation	--------

In agreement with the House, the Committee recommends no appropriation of the requested $300,000 to begin renovation of Museum of African Art buildings. Preliminary planning can be accomplished within available funds, and improvement costs can be addressed in the fiscal 1980 budget.

SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

1979 appropriations to date	$1,567,000
1979 supplemental estimates	1,000,000
House allowance	---------
Committee recommendation	---------

The Committee does not recommend the requested appropriation of $1,000,000, in agreement with the House, to establish the Hubert H. Humphrey fellowship. Within a restrictive spending ceiling, the Committee will defer consideration of this proposal to another year.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

SALARIES AND EXPENSES

1979 appropriations to date	$102,160,000
1979 supplemental estimates	1,400,000
House allowance	----------
Committee recommendation	----------

The Committee recommends no appropriation of the $1,400,000 budget estimate, in agreement with the House. The proposed White House conference on the arts, for which the funds are requested, is an expense that can be deferred to a time when spending controls are not so restrictive.

NATIONAL ENDOWMENT FOR THE HUMANITIES

SALARIES AND EXPENSES

1979 appropriations to date	$98,300,000
1979 supplemental estimates	1,400,000
House allowance	----------
Committee recommendation	----------

As with the arts endowment, the Committee recommends no appropriation for a White House conference on the humanities.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

(BORROWING AUTHORITY)

1979 appropriations to date	$13,400,000
1979 supplemental estimates	19,600,000
House allowance	19,600,000
Committee recommendation	19,600,000

The Committee recommends an appropriation of $19,600,000, the same as the budget estimate and House allowance, to continue acquisition of development areas on Pennsylvania Avenue. Nearly all borrowing authority already appropriated has been utilized. Delays at this stage of development would be costly.

PUBLIC DEVELOPMENT

1979 appropriations to date	$12, 355, 000
1979 supplemental estimates	17, 900, 000
House allowance	17, 900, 000
Committee recommendation	17, 900, 000

The Committee recommends an appropriation of $17,900,000, the same as the budget request and the House allowance, to continue development and historical preservation. As in the preceding account, funding interruptions would only serve to increase the project's expense.

INCREASED PAY COSTS

The Committee recommends appropriations totaling $81,082,000 for increased pay costs resulting from general pay raises for Federal employees effective last October. This is a $13,502,000 reduction in the budget estimates and an increase of $4,581,000 in the House allowance. Except for a few specific changes the Committee generally agreed with the House allowances. The major single difference stems from Senate deletion of a House-approved $3,600,000 transfer to cover part of Indian Health Service pay costs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER VI					
DEPARTMENT OF THE INTERIOR					
BUREAU OF LAND MANAGEMENT					
Management of lands and resources	[1]$55,850,000	$44,850,000	$55,850,000		+$11,000,000
HERITAGE CONSERVATION AND RECREATION SERVICE					
Urban park and recreation fund	37,500,000	20,000,000	20,000,000	−$17,500,000	
NATIONAL PARK SERVICE					
Operation of the National Park System	1,727,000	1,727,000	1,727,000		
GEOLOGICAL SURVEY					
Surveys, investigations, and research	1,700,000			−1,700,000	
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT					
Regulation and technology	2,241,000			−2,241,000	
BUREAU OF INDIAN AFFAIRS					
Operation of Indian programs	7,000,000	7,000,000	7,000,000		
OFFICE OF TERRITORIAL AFFAIRS					
Administration of territories	1,419,000	1,419,000	23,312,000	+21,893,000	+21,893,000

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate Committee recommendation compared with (+ or −)	
				Budget estimates	House bill
SECRETARIAL OFFICES					
OFFICE OF THE SECRETARY					
Departmental management	$200,000			−$200,000	
Total, Department of the Interior	107,637,000	$74,996,000	$107,889,000	+252,000	+$32,893,00
RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
FOREST SERVICE					
Forest protection and utilization	60,000,000	60,000,000	57,245,000	−2,755,000	−2,755,000
DEPARTMENT OF ENERGY					
Energy production, demonstration, and distribution	3,000,000			−3,000,000	
Energy conservation	43,025,000		1,200,000	−41,825,000	+1,200,000
Economic Regulatory Administration	42,100,000	5,600,000	8,400,000	−33,700,000	+2,800,000
Energy information administration	14,780,000		2,000,000	−12,780,000	+2,000,000
Total, Department of Energy	102,905,000	5,600,000	11,600,000	−91,305,000	+6,000,000

SMITHSONIAN INSTITUTION					
Salaries and expenses	350,000	200,000	200,000	−150,000	
Restoration and renovation of buildings	300,000			−300,000	
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,000,000			−1,000,000	
Total, Smithsonian Institution	1,650,000	200,000	200,000	−1,450,000	
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES					
NATIONAL ENDOWMENT FOR THE ARTS					
Salaries and expenses	1,400,000			−1,400,000	
NATIONAL ENDOWMENT FOR THE HUMANITIES					
Salaries and expenses	1,400,000			−1,400,000	
Total, National Foundation on the Arts and the Humanities	2,800,000			−2,800,000	
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION					
Land acquisition and development fund (authority to borrow)	19,600,000	19,600,000	19,600,000		
Public development	17,900,000	17,900,000	17,900,000		
Total, Pennsylvania Avenue Development Corporation	37,500,000	37,500,000	37,500,000		
Total related agencies	204,855,000	103,300,000	106,545,000	−98,310,000	+3,245,000
Total, chapter VI:					
New budget (obligational) authority	312,492,000	178,296,000	214,434,000	−198,058,000	+36,138,000
Appropriations	(292,892,000)	(158,696,000)	(194,834,000)	(−198,058,000)	(+36,138,000)
Authority to borrow	(19,600,000)	(19,600,000)	(19,600,000)		

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[1] Includes $11,000,000 in H. Doc. 96–145 and not considered by the House.

CHAPTER VII

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

EMPLOYMENT AND TRAINING ASSISTANCE

Private Sector Program

1979 appropriations to date	-----------
1979 supplemental estimate	$400,000,000
House allowance	-----------
Committee recommendation	-----------

The Committee recommends no supplemental appropriation, a decrease of $400,000,000 below the President's budget, and the same as the House allowance. The private sector initiatives program is designed to encourage business to train and hire hard-to-employ individuals, particularly youth. Funds can be used to reimburse firms for costs of classroom and on-the-job training for disadvantaged persons.

The Committee has concurred with the House and allowed a $75,000,000 reprograming request to launch this program, for which there has not yet been a specific appropriation. Although the $400,000,000 supplemental request has not been officially withdrawn, the Labor Department has amended its fiscal 1980 budget request to include $325,000,000 for the private sector initiatives program, in lieu of the supplemental.

The funds will be distributed to 460 prime sponsor jurisdictions throughout the country, but only when each locality has demonstrated it is ready to use the funds. The most important requirement for receipt of funding is formation of private industry councils, composed of local business leaders, labor union officials, and representatives of community-based organizations. The councils will direct the private sector initiatives activities in each local community to better insure development of programs responsive to business needs.

EMPLOYMENT AND TRAINING ADMINISTRATION

COMMUNITY SERVICES EMPLOYMENT FOR OLDER AMERICANS

1979 appropriations to date	$211,700,000
1979 supplemental estimate	8,900,000
House allowance	8,900,000
Committee recommendation	8,900,000

The Committee recommends $8,900,000, the same as the House allowance and budget request.

This appropriation provides part-time community service jobs for unemployed low-income persons, aged 55 and above. Participants work in a wide variety of activities in schools, hospitals, libraries, senior citizen and day care centers, and on such projects as restoration, conservation, and beautification.

The supplemental is intended to allow payment of minimum wage increases to the current level of 47,500 enrollees.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

1979 appropriations to date	$200,000,000
1979 supplemental estimate	500,000,000
House allowance	(1)
Committee recommendation	500,000,000

[1] Not considered.

The Committee recommends an appropriation of $500,000,000, the amount of the request, for Advances to the Unemployment Trust Fund and Other Funds. The request was transmitted too late for consideration by the House. Together with $200,000,000 already appropriated, this would raise the total to $700,000,000 for fiscal 1979 advances.

Of the total, $300,000,000 is for repayable advances to pay benefits for claims under black lung legislation and is the result of accelerated processing of claims. Much of this additional request for funds is due to retroactive payments to claimants who will, at last, receive that which is due them.

The $200,000,000 balance is for the payment of benefits to cover ex Public Service Employment employees ($50,000,000) and unemployed persons newly covered under the transitional portion of the Unemployment Compensation Amendments of 1976 ($150,000,000). These benefits are approximately double the total originally estimated for them and are based on actual data. The original estimates were inaccurate primarily due to lack of information about the new types of claimants.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

1979 appropriations to date	$148,452,000
1979 supplemental estimate	8,218,000
House allowance	8,218,000
Committee recommendation	8,218,000

The Committee recommends an appropriation of $8,218,000, the same as the President's budget and House allowance.

The Employment Standards Administration enforces a variety of laws prescribing workers' standards and conditions with which employers must comply, relating to minimum wages, hours worked, nondiscrimination and affirmative action in hiring and employment, and workers' compensation for selected groups of workers injured or killed on the job.

The supplemental is for 207 additional permanent positions and 141 temporary staff-years to process an anticipated increase in workers' compensation cases. These resources would permit closing 47,800 more cases, for a total of 203,000, to bring the backlog of workers' compensation cases under control. Currently, for example, it takes an average of 35 days to respond to written inquiries about claims, which would be reduced to an average of 10 days with this supplemental, and hearing decisions would be reached in an average of 2 months instead of over 8 months.

BLACK LUNG DISABILITY TRUST FUND

1979 appropriations to date	$421,509,000
1979 supplemental estimate	300,000,000
House allowance	[1]
Committee recommendation	300,000,000

[1] Not considered.

The Committee recommends $300,000,000, the amount of the budget request, for the Employment Standards Administration "Black Lung Disability Trust Fund" for payment of all benefits and interest on advances. The request was not transmitted in time for consideration by the House. Together with the $421,509,000 already appropriated, this would raise the total to $721,509,000 for fiscal year 1979. This level of funding will provide payment for all Black Lung compensation, medical, and survivor benefits expenses when no responsible mine operator can be assigned liability for such benefits, or when coal mine employment ceased prior to 1970, and to provide for an increase in interest payments on repayable advances as required by law. Other activities covered by the Trust Fund are not affected by this request.

The additional amount recommended is needed to pay previously-denied benefit claims, which are being reexamined, as required by law, more quickly and at a higher approval rate than previously anticipated.

The Committee is concerned about the late transmittal of supplemental estimates for these mandatory benefits program, with virtually no advance warning. The Committee expects the Labor Department and the Social Security Administration to review the circumstances leading to this late supplemental transmittal, and to take corrective action to avoid future delays which may endanger timely benefit payments.

General Provision

NATIONAL MINE HEALTH AND SAFETY ACADEMY

The bill also includes authority to transfer the National Mine Health and Safety Academy to the Department of Labor. This authority will permit full integration of the Academy's facilities in directing Federal safety and health education and training. The Committee intends that section 502 of Public Law 91–173 be interpreted to provide the Secretary of Labor with authority to furnish copies of educational or training materials or documents in his custody related to mine safety and health, and charge therefore an amount equal to the cost of production and handling. Payments received for such materials would be deposited in the Treasury to the credit of the Department's appropriation. The Committee believes that this authority would permit the Mine Safety and Health Administration to continue its program of providing training films and materials to the mining community consistent with the savings provisions contained in Public Law 95–164.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

HEALTH SERVICES

1979 appropriations to date	$148, 452, 000
1979 supplemental estimate	100, 219, 000
House allowance	
Committee recommendation	14, 969, 000

The Committee recommends an appropriation of $14,969,000, $85,250,000 under the President's budget and $14,969,000 over the House allowance.

Community health centers

The Committee agrees with the House and has not allowed any additional funds for community health centers. The Committee recognizes, however, that in compliance with section 340 of the Public Health Service Act, some projects supported by the health underserved rural areas program (HURA) must be made a part of the rural health initiatives program (RHI). It is noted that $16,500,000 was provided for the HURA program, through the continuing resolution. The Committee directs that funds under the continuing resolution necessary to carry out the intent of section 340 be used to support projects under the rural health initiatives program. No additional funds were provided for the community health centers as it is felt that this is an item which can and should be addressed in the regular fiscal year 1980 appropriations measure.

Sickle cell screening

The Committee has agreed with the House and has recommended that no increased funds be allowed for the sickle cell program. Presently, all sickle cell screening and treatment programs are operating at the fiscal year 1978 level. The President's request would simply allow this program to be transferred to the genetic information and counseling program. While the Committee does not have any difficulty with this recommendation, it sees no reason why this program cannot continue to operate at the 1978 level until action takes place in the regular appropriations bill for fiscal year 1980.

Family planning

The sum of $10,000,000 has been recommended for family planning services, the same amount as the President's budget request. The House provided zero. As part of a nationwide effort to expand the knowledge and services available to those citizens requesting family planning information, the Committee feels that, as a prevention tool, these funds are critical. This $10,000,000 will be used to expand the capacity of family planning educational programs and increased counseling and medical services to nearly 150,000 adolescent women at a time when teenage pregnancies are soaring to an excess of 1.8 million per year.

National Health Service Corps

The Committee recommendation allows $4,969,000 for the National Health Service Corps, the same as the President's budget request. This amount will provide for a program level of 1,725 assignees, including 125 new assignees over the level already appropriated for 1979, who will provide health care services to an additional 22,000 persons residing in rural and urban medically underserved areas. It is necessary to include these funds in a supplemental bill so that the new assignees may enter duty in 1979. Six hundred and twenty-five National Health Corps scholarship recipients become available in 1979 to be assigned to the 300 new positions over the fiscal year 1978 level and to replace NHSC assignees whose assignments will terminate. These increased funds will help provide sufficient positions for this year's scholarship graduates.

Center for Disease Control

PREVENTIVE HEALTH SERVICES

1979 appropriations to date	$231, 369, 000
1979 supplemental estimate	20, 600, 000
House allowance	12, 000, 000
Committee recommendation	12, 000, 000

The Committee recommends an appropriation of $12,000,000, $8,600,000 under the President's budget and the same amount as the House allowance.

The funds recommended by the Committee are for the childhood immunization program. This recommendation will allow the States to immunize an average level of 90 percent of all children. This will maintain progress toward a permanent system to provide comprehensive immunization services to the 3 million children born each year in the United States.

The Committee notes a considerable amount of uncertainty and controversy over the flu immunization program. From both a scientific and management perspective, there is a great deal of debate, even in the administration, over the need or the efficacy of the flu program. Further, there is serious question as to the importance of having these funds in a supplemental and not in the regular appropriations bill. immunization program, a decrease of $8,600,000 below the President's With this in mind, no funds have been provided for the influenza request and deletion of eight positions. This is the same as the House allowance.

National Institutes of Health

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

1979 appropriations to date	$190, 130, 000
1979 supplemental estimate	10, 713, 000
House allowance	5, 000, 000
Committee recommendation	10, 713, 000

The Committee recommends an appropriation of $10.713,000, the same as the President's budget and $5,713,000 over the House allowance.

The National Institute of Child Health and Human Development is responsible for a major share of population research programs conducted within the United States. The President's request for this supplemental was necessary to increase a program which was not acted upon in the regular fiscal year 1979 appropriations bill due to a lack of authorizing legislation.

These funds will support grants and contracts for fundamental biomedical research in the reproductive sciences and the evaluation of the safety and effectiveness of current contraceptive methods. The Committee has allowed the full amount of the President's budget request for this high-priority research program. This program is an integral part of the President's initiative on adolescent health programs and the prevention of unwanted pregnancies, as well as research which will provide hope for those who are unable to have children.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

1979 appropriations to date	$716, 667, 000
1979 supplemental estimate	4, 118, 000
House allowance	----------
Committee recommendation	2, 554, 000

The Committee recommends an appropriation of $2,554,000, $1,564,000 under the President's budget and $2,554,000 over the House allowance.

The Committee recommendation is for general mental research training grants and fellowships. Of this amount, $2,092,000 will fund 26 additional grants to institutions and $462,000 will fund 35 additional fellowship awards. The total amount will provide mental health research training for 214 individuals. While all of the fellowships will be new awards, 8 of 26 grants are for competing continuations of grant programs already funded. In approving this supplemental request, the Committee notes that the funding for mental health research has increased by about 30 percent since fiscal year 1977. This increase will help assure an adequate supply of investigators for mental health research programs. These funds are necessary in the supplemental because the program must be in place and awards let prior to the beginning of the upcoming school year.

The Committee has not approved the request at this time for an additional $1,564,000 for research related to rape prevention and control.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

The Committee is distressed at the inability of HEW to produce a report on the issue of financial aid to institutions as mandated by Congress in the fiscal 1979 Labor-HEW appropriations bill. This report is now over 5 months late—an inexcusable delay and one which has forced the Congress to make decisions without the proper information and recommendations. The Committee continues to await receipt of this important report.

In fiscal year 1979, three institutions; Meharry Medical and Dental Schools, Xavier, and Tuskegee Institute, received $3.2 million of the $5 million available in the Financial Distress Program. This is 64 percent of the total. One school has received 30 percent of all Financial Distress funds since inception of the program in 1972 ($18.6 million out of $56.7 million).

Recognizing the significance of this program on the future of financially troubled institutions, the Committee requests Meharry Medical and Dental Schools, Xavier University Pharmacy School, and Tuskegee Institute to communicate directly with the Committee regarding the use of these funds citing specific examples of short- and long-range solutions for their fiscal problems.

The Committee also states that its action agreeing to remove the current 75-percent limitation on Health Professions Distress Grants is for fiscal year 1979 only and does not constitute a precedent in this program. The Committee would like to see the schools involved actively seek other sources of support to deal with their financial problems.

Assistant Secretary for Health

1979 appropriations to date	$119, 170, 000
1979 supplemental estimate	23, 490, 000
House allowance	10, 000, 000
Committee recommendation	11, 000, 000

The Committee recommends an appropriation of $11,000,000, $12,490,000 under the President's budget and $1,000,000 over the House allowance.

Health Maintenance Organizations

The Committee's recommendation allows $10,000,000 of the $16,490,000 requested for Health Maintenance Organizations. This includes $8,500,000 for feasibility, planning and initial development grants and $1,500,000 for management training and technical assistance.

Adolescent pregnancy

The Committee has allowed $1,000,000 and 15 positions to initiate an adolescent pregnancy program. The President requested $7,000,000 and 20 positions and the House allowed zero. This program is intended to provide assistance to prevent repeat pregnancies among adolescents, to provide pregnant adolescents with choices available to them; and to assist pregnant adolescents and adolescent parents to participate independently in family, school, and community life.

The Committee directs the Department to insure that all facets of the so-called prolife and prochoice factions are represented on the advisory councils as well as in the 15 positions which the Committee has approved. Further, the Committee directs that a report be given to the Committee prior to any grant or contract being let, specifying how each contract will result in the complete review of all options open to the pregnant adolescent.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

1979 appropriations to date	$11, 250, 000, 000
1979 supplemental estimate	554, 429, 000
House allowance	554, 429, 000
Committee recommendation	554, 429, 000

The Committee recommends an appropriation of $554,429,000. This is the same as the budget estimate and the House allowance.

The Federal share of State medicaid costs averages 55 percent. The program is administered by the States but each State is required to provide inpatient hospital and nursing home care, physician and outpatient services, as well as lab, X-rays, and home health care costs to eligible recipients. Eligibility is based on eligibility for cash assistance or, at the State's option, up to 133 percent of the income cutoff level for welfare payments.

The Administration has informed the Committee that the pending supplemental request is $194 million short of actual fiscal year 1979 requirements. This is due to overly optimistic projections of hospital and physician price increases and of the savings that would be achieved through quality control of eligibility and payment levels, as well as the stepped-up efforts to combat fraud and abuse.

The Committee agrees with the House that this money can and should be "borrowed" from fiscal year 1980 new budget authority. The appropriations language provides for this contingency and the Administration's record of medicaid cost projections has not given the Committee sufficient reason to increase the appropriation level without a formal budget request for the new estimate.

EDUCATION DIVISION

Office of Education

ELEMENTARY AND SECONDARY EDUCATION

Grants for the Disadvantaged—Concentration Grants

1979 appropriations to date	----------
1979 supplemental estimate	$258,000,000
House allowance	200,000,000
Committee recommendation	----------

The Committee is not recommending any funds for the new Title I Concentration Grants program. The supplemental budget request is $258,000,000 and the House allowance is $200,000,000.

This provision was enacted after passage of the regular fiscal 1979 Labor-HEW appropriations bill. There is no urgent need to implement this provision in a supplemental appropriations bill. The decision on implementation of Concentration Grants can be made in fiscal year 1980.

OCCUPATIONAL VOCATIONAL, AND ADULT EDUCATION

1979 appropriations to date	$765,208,000
1979 supplemental estimate	----------
House allowance	Bill language
Committee recommendation	Bill language

The Committee agrees with the House on bill language inserted relating to the fiscal 1979 appropriation for State advisory councils for vocational education. The bill language would enable minimum funding for State advisory councils to be increased to $93,500 from the present minimum level of $75,000. No additional funds are required. The recommended language clarifies the intent of Congress in enacting the 1979 Labor-HEW appropriations bill. States which receive allocations above the minimum funding level will not be affected.

STUDENT LOAN INSURANCE FUND

Interest Subsidies

1979 appropriations to date	$517,206,000
1979 supplemental estimate	248,180,000
House allowance	248,180,000
Committee recommendation	248,180,000

The Committee recommends an appropriation of $243,189,000, the same as the House allowance and supplemental budget request.

These funds pay interest subsidies, special allowances to lenders, and default claims under the Guaranteed Student Loan program. These costs are mandatory expenses which the Federal Government is required to pay.

The supplemental appropriation of $243,189,000 is required to meet the estimated costs resulting from an increase in loan volume and special allowances, as well as revised projections for the costs associated with administrative allowances and advances to guarantee agencies. The supplemental funds will support an increase in new loan volume from the original estimate of $1.7 billion to a revised estimate of $2.2 billion. The growth in the program includes increased loan volume as a result of the recently enacted Middle Income Student Assistance Act which extends eligibility for loans to all families, regardless of income.

The specific details of the supplemental appropriation are as follows:

(1) Increase in interest payments resulting from increased loan volume	$37,395,000
(2) Increase in special allowance resulting from new loan volume, and an increase in the special allowance rate from 2.9 percent to 5 percent on presently outstanding loans	187,015,000
(3) Increase in death, disability, and bankruptcy claims	8,458,000
(4) Increase in administrative cost allowances to State guarantee agencies resulting from increased loan volume	3,999,000
(5) Increase in loan advances to State guarantee agency reserve funds	6,322,000
Total	243,189,000

No supplemental funds are required for default claims which are currently estimated to amount to $184,635,000 or $8,866,000 less than the amount provided in the regular appropriation bill for 1979. The Committee is pleased to note that the Department's intensified efforts to collect outstanding loans appears to be producing results. The default rate has been reduced from the fiscal year 1977 level of 13.7 percent to 10.5 percent in fiscal year 1978. Current Office of Education estimates indicate the rate has declined to 9.3 percent as of May 1, 1979.

LIBRARY RESOURCES

School Libraries and Instructional Resources

1979 appropriations to date	$180,000,000
1979 supplemental estimate	Bill language
House allowance	----------
Committee recommendation	----------

The Committee agrees with the House in not approving bill language requested to make $18,000,000 of the $180,000,000 appropriated for school libraries and instructional resources available for guidance, counseling, and testing.

The funds involved are part of the $180,000,000 appropriated for title IV–B of the Elementary and Secondary Act in the Labor-HEW appropriations bill for 1979, enacted October 18, 1978 (Public Law 95–480). Subsequently, legislation was enacted in the Education Amendments of 1978 (Public Law 95–561) authorizing separate programs for school libraries and for guidance, counseling, and testing. This legislation was signed into law on November 1, 1978.

The authorization existing at the time the Committee considered these programs, and under which the appropriation bill was enacted, provide consolidated grants for school libraries and instructional resources, including guidance, counseling, and testing. The Committee finds no compelling reason to amend the 1979 appropriation bill to conform to a subsequent change in the authorizing legislation. The purposes of all programs involved can best be served by allocating consolidated grants to the States under the authority of the authorizing legislation as it existed at the time the 1979 appropriations bill was enacted.

As in prior years, the decision on how much money will be used for guidance, counseling, and testing will be left to each State.

SPECIAL PROJECTS AND TRAINING

1979 appropriations to date	$121, 971, 000
1979 supplemental estimate	1, 000, 000
House allowance	
Committee recommendation	300, 000

The Committee recommends an appropriation of $300,000, $700,000 under the President's budget and $300,000 over the House allowance.

On January 8, the Committee approved a reprograming request of $700,000 for the PUSH for Excellence program. The House approved the request on February 9. This reprograming shifted funds within the special projects program. These funds were needed prior to the passage of the supplemental to insure continued funding of the PUSH for Excellence during the 1978–79 school year.

The $300,000 recommended by the Committee would be used to fund this program through the remainder of the calendar year. These funds will provide the full $1,000,000 originally requested in fiscal year 1979.

PUSH for Excellence is a demonstration program which emphasizes increased parental and community involvement in efforts to increase students' responsibility and academic achievement.

EDUCATIONAL OPPORTUNITIES OVERSEAS

(SPECIAL FOREIGN CURRENCY PROGRAM)

1979 appropriations to date	
1979 supplemental estimate	$2, 000, 000
House allowance	500, 000
Committee recommendation	500, 000

The Committee recommends an appropriation of $500,000, $1,500,000 under the President's budget and the same as the House allowance. No funds were appropriated for this program in the 1979 regular Labor-HEW appropriations bill. The funds will allow for high-priority projects to be funded during the remaining months of fiscal year 1979. The program funds do not come from U.S. tax dollars.

Educational activities overseas supports grants to American educators of U.S.-owned foreign currencies for the improvement of foreign language and international studies. These funds would support Fulbright-Hays fellowship activities in Egypt, Pakistan, and India.

Social Security Administration

ASSISTANCE PAYMENTS

1979 appropriations to date	$6,063,000,000
1979 supplemental estimate	4,895,000
House allowance	1,200,000
Committee recommendation	1,200,000

The Committee recommends an appropriation of $1,200,000. This is $3,695,000 under the President's budget and the same as the House allowance.

This program pays for cash assistance to low-income families and child support enforcement activities.

The Committee agrees with the House in adding only $1,200,000 to this account rather than providing the full $4,895,000 that was requested. The amount approved will fully cover the cost of the 75 positions added in the fiscal year 1979 regular bill. The 78 positions that are denied are not seen by the Committee as critical to the efficient management of public assistance programs. Many of the 75 positions already provided were for tighter financial management oversight. When these positions have been put in place, the Committee may reconsider the need for more Federal financial management capability.

REFUGEE ASSISTANCE

1979 appropriations to date	$118,719,000
1979 supplemental estimate	59,964,000
House allowance	59,964,000
Committee recommendation	59,964,000

The Committee recommends an appropriation of $59,964,000, the same as the President's budget and the House allowance.

Legislation recently enacted raised the Federal matching share from 75 to 100 percent for the costs of providing cash assistance and medical and social services to new Indochinese refugees. An additional 65,000 Indochinese and 36,000 Eastern European refugees are expected to enter the United States during fiscal year 1979.

The Committee has provided the full amount of the budget request which includes an upward revision of $8,300,000, which was requested on May 5, 1979.

Language was also sought by HEW to allow funds to be borrowed from a subsequent year's appropriation in the event that the funds provided in the current year are insufficient. The Committee agrees with the House that such language should be reserved for entitlement programs.

Human Development Services

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

1979 appropriations to date	$2,521,552,000
1979 supplemental estimate	188,548,000
House allowance	188,548,000
Committee recommendation	188,548,000

The Committee recommends an appropriation of $188,548,000, the same as the House allowance.

Social services and the training of social workers to deliever those services are authorized by title XX of the Social Security Act. States may determine the income eligibility level as long as it is under 115 percent of the State's median income. The services are designed to promote economic and social self-sufficiency and include day care, homemaker services, and community-based services to the previously institutionalized.

An additional $200,000,000 was authorized for title XX after the fiscal year 1979 regular appropriations bill. The Committee agrees with the House in providing $188,548,000 of this increased authorization that is expected to be claimed by the States during fiscal year 1979.

The most recent quarterly Status of Funds report for public assistance programs identifies approximately $100,000,000 more of late State claims for prior years which will be reimbursed during fiscal year 1979.

The Committee has decided, however, not to provide these funds until the Administration has sufficient confidence in these estimates to submit a formal budget revision for this amount.

HUMAN DEVELOPMENT SERVICES

1979 appropriations to date	$2,222,722,000
1979 supplemental estimate	129,028,000
House allowance	151,528,000
Committee recommendation	149,528,000

The Committee recommends an appropriation of $149,528,000, an increase of $20,500,000 over the President's budget and $2,000,000 below the House allowance.

The Office of Human Development Services provides a variety of social services to such groups as the elderly, children and youth, and the handicapped. This supplemental request includes funds for Head Start, aging programs, rehabilitation services, and a White House Conference on Aging.

Head Start

For the Head Start program, the Committee recommends $55,000,000, the same as the House allowance and budget request. This amount is sufficient to prevent cutbacks in existing services. It also permits enrollment of an additional 9,000 children, increasing the total from 402,000 to 411,000 children receiving Head Start services.

Aging Program

For aging programs, the Committee recommends $27,016,000, an increase of $22,500,000 over the President's budget and the same as the House allowance.

The Committee agrees with the House in recommending $3,500,000 for State and area agency administration, and $3,970,000 for area agency services and centers, the full amount of the budget request.

For nutrition services, the Committee also agrees with the House in recommending $27,046,000, an increase of $22,500,000 over the budget request. The Commissioner on Aging is instructed to determine the exact level of deficit spending among the States as of June 1, 1979 in the nutrition for the elderly program, to develop standard criteria for allocating the $22,500,000 increase over the budget provided in this bill, and to report to the Committee as to the amount of deficit and submit a plan for the Committee's approval of the method of allocation within 20 days, prior to making any allocation of these funds. The intent of the Committee is that these funds be used to cover the costs of actual service levels in 1979, not to undertake program increases at this late point in the fiscal year.

Rehabilitation Services

For rehabilitation services, the Committee recommends $57,012,000, $2,000,000 under the President's budget and the House allowance.

The Committee agrees with the House in recommending $57,012,000 for the basic State grants program, the same as the budget request. Of this amount, $9,484,000 is for maintenance of effort provisions of the authorization enacted by Congress last fall. The main purpose of the basic State grants program is to provide vocational rehabilitation services to severely handicapped individuals.

The Committee has deleted the $2,000,000 requested supplemental to launch a new program of comprehensive services for independent living. Due to lateness in the fiscal year, it does not appear funds could be effectively used. Startup funding will therefore be considered in connection with the $10,000,000 fiscal 1980 budget request for this program.

White House Conference

For the White House Conference on Aging, the Committee recommends $3,000,000, the same as the President's budget and House allowance. There is no existing appropriation for this conference, which is scheduled for 1981. These funds are intended to cover the entire costs of planning and carrying out the conference through 1981. The funds are needed now to begin hiring staff and appointing an advisory committee in time to complete initial planning to keep the conference on schedule.

RESEARCH AND TRAINING ACTIVITIES OVERSEAS

(SPECIAL FOREIGN CURRENCY PROGRAM)

1979 appropriations to date	----------
1979 supplemental estimate	$3,490,000
House allowance	1,000,000
Committee recommendation	1,000,000

The Committee recommends an appropriation of $1,000,000, $2,490,000 under the President's budget and the same as the House allowance. No funds had been previously appropriated for fiscal year 1979.

The Research and Training Activities Overseas program supports research-related activities in countries where economic trade and cooperative exchanges have produced a surplus of their foreign currencies that are owed the United States. Research is conducted in the fields of rehabilitation, social services, and social security.

The Committee believes that, due to the lateness of the fiscal year, only $1,000,000 should be appropriated in order to insure that funds are only spent on the highest quality research projects.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

1979 appropriations to date	$118,377,000
1979 supplemental estimate	15,313,000
House allowance	----------
Committee recommendation	----------

The President requested an additional $15,313,000 for domestic programs of the Action agency, including Volunteers in Service to America (VISTA), urban volunteer programs, and citizen participation and volunteer demonstration programs. These programs lack authorizing legislation and have therefore not been included in this bill.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

1979 appropriations to date	
1979 supplemental estimate (advance for 1981)	$162,000,000
House allowance	162,000,000
Committee recommendation	162,000,000

The Committee recommends an appropriation of $162,000,000. This is the same as the House allowance and the President's request. This is an advance appropriation for fiscal year 1981. The Corporation received an advance appropriation of $152,000,000 in fiscal year 1978 for fiscal year 1980. Normally, this appropriation is included in the regular appropriations bill; however, this past year there was no authorization to appropriate during consideration of the regular fiscal year 1979 appropriation.

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

1979 appropriations to date	
1979 supplemental estimate	$685,000
House allowance	
Committee recommendation	685,000

The Committee recommends an appropriation of $685,000, which is the same as the President's budget.

This is a one-time appropriation. The Commission was mandated by title XV of Public Law 95-561. It has been in existence since April 14, 1978, and will termimate by April of 1980. This appropriation will cover expenses for the fourth quarter of fiscal year 1979 and the first 6 months of fiscal year 1980. For the last half of fiscal year 1978 and the first three quarters of fiscal year 1979, sufficient funds have been transferred from the U.S. Departments of Justice, State, and HEW. The Committee recently approved an HEW reprogramming request for $237,000 for the third quarter of fiscal year 1979, with the assertion that no further funds would be available unless specifically appropriated. The $237,000 brought HEW's contribution from reallocation up to $796,000. This is in addition to the $229,000 that was transferred from the Departments of Justice and State.

This Commission is authorized to mark the observance of the International Year of the Child while creating a better understanding of and response to the needs of children.

Part of this response includes recommendations to the President on national policies which will have lasting impact on children.

NATIONAL COMMISSION ON SOCIAL SECURITY

1979 appropriations to date	$500,000
1979 supplemental estimate	2,000,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends an appropriation of $2,000,000. This is identical to the budget request and House allowance.

Congress legislated the establishment of this Commission to provide it with objective information and analyses of the long-term financing prospects for social security and medicare as well as related eligibility and coverage issues.

The $500,000 was provided in the regular fiscal year 1979 appropriation to initiate the work of the Commission which will expire in 1981. This is expected to be the final appropriation needed for this activity.

RAILROAD RETIREMENT BOARD

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

1979 appropriation to date	$25, 000, 000
1979 supplemental estimate	56, 516, 000
House allowance	18, 870, 000
Committee recommendation	18, 870, 000

The Committee recommends an appropriation of $18,870,000; the same as the President's request and the House allowance.

The Committee has also included bill language so that the unexpended amount provided for this account in the regular fiscal year 1976 Labor-HEW appropriations bill shall remain available until expended. The President had requested that these funds be made available through reappropriation.

This program reimburses railroads affected by the Regional Rail Reorganization Act of 1973 for payments made to employees protected under the act. The Board estimates these funds will be necessary to pay for claims during the rest of fiscal year 1979.

LIMITATION ON SALARIES AND EXPENSES

1979 appropriation to date	($34, 317, 000)
1979 supplemental estimate	(1, 000, 000)
House allowance	(1, 000, 000)
Committee recommendation	(1, 000, 000)

The bill includes an increase in the limitation of $1,000,000, the same as the President's request and the House allowance. This increase will enable the Board to engage an outside contractor to make an extensive benefit accuracy study of the Board's retirement program. This study is intended to help curb waste, fraud, and abuse.

TITLE II

INCREASED PAY COSTS

The Committee does not approve the transfer of funds in the amount of $3,600,000 from the Public Health Service hospitals and clinics, Health Services Administration, to the Indian Health Service, Health Services Administration. The House has agreed to this transfer of funds. The Committee directs HEW to utilize these funds for programs, patient care and equipment as originally directed by the Congress.

In addition, the Committee does not approve the transfer of funds in the amount of $7,552,000 from the health professions capitation program, Health Resources Administration, to the Indian Health Service, Health Services Administration. The House did not approve this transfer.

In order to clarify the Committee's intent with respect to the $20,000,000 Congress appropriated over the President's request and the House allowance in fiscal year 1979, the Committee understands the following arrangement with the Department of Health, Education, and Welfare for expenditure of the $20,000,000:

$6.5 million for absorption of the PHS Hospitals and Clinics pay raise cost;

$3.5 million for reprogramings within the Health Services appropriation to cover pay raise costs;

$5.8 million for increased contract patient care costs;

$2.9 million for equipment, maintenance and repair; and

$1.3 million will be used to fund the 50 positions above the President's budget request.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER VII					
DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
Employment and training assistance	$400,000,000			−$400,000,000	
Community service employment for older Americans	8,900,000	$8,900,000	$8,900,000		
Advances to the unemployment trust fund and other funds	500,000,000		500,000,000		+500,000,000
Total, Employment and Training Administration	908,900,000	8,900,000	508,900,000	−400,000,000	+500,000,000
EMPLOYMENT STANDARDS ADMINISTRATION					
Salaries and expenses	8,218,000	8,218,000	8,218,000		
Black Lung Disability Trust Fund	300,000,000		300,000,000		+300,000,000
Total, Department of Labor	1,217,118,000	17,118,000	817,118,000	−400,000,000	+800,000,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
HEALTH SERVICES ADMINISTRATION					
Health services	100,219,000		14,969,000	−85,250,000	+$14,969,000
CENTER FOR DISEASE CONTROL					
Preventive health services	20,600,000	12,000,000	12,000,000	−8,600,000	
NATIONAL INSTITUTES OF HEALTH					
National Institute of Child Health and Human Development	10,713,000	5,000,000	10,713,000		+5,713,000

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
Alcohol, drug abuse, and mental health	4,118,000		2,554,000	−1,564,00	+2,554,000
ASSISTANT SECRETARY FOR HEALTH					
Salaries and expenses	23,490,000	10,000,000	11,000,000	−12,490,000	+1,000,000
HEALTH CARE FINANCING ADMINISTRATION					
Grants to States for Medicaid	554,429,000	554,429,000	554,429,000		
OFFICE OF EDUCATION					
Elementary and secondary education	258,000,000	200,000,000		−258,000,000	−200,000,000
Student loan insurance fund: Appropriation	243,189,000	243,189,000	243,189,000		
Special projects and training	1,000,000		300,000	−700,000	+300,000
Education activities overseas (special foreign currency program)	2,000,000	500,000	500,000	−1,500,000	
Total, Office of Education	504,189,000	443,689,000	243,989,000	−260,200,000	−199,700,000
SOCIAL SECURITY ADMINISTRATION					
Assistance payments program	4,895,000	1,200,000	1,200,000	−3,695,000	
Refugee assistance	51,664,000	59,964,000	59,964,000	+8,300,000	
Total, Social Security Administration	56,559,000	61,164,000	61,164,000	+4,605,000	
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES					
Grants to States for social and child welfare services	188,548,000	188,548,000	188,548,000		
Human development services	129,028,000	151,528,000	149,528,000	+20,500,000	−2,000,000
Research and training activities overseas (special foreign currency program)	3,490,000	1,000,000	1,000,000	−2,490,000	
Total, Assistant Secretary for Human Development Services	321,066,000	341,076,000	339,076,000	+18,010,000	−2,000,000
Total, Department of Health, Education, and Welfare	1,595,383,000	1,427,358,000	1,249,894,000	−345,489,000	−177,464,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
RELATED AGENCIES					
Action, operating expenses, domestic programs	$15,313,000			−$15,313,000	
Corporation for Public Broadcasting: Advance appropriations for 1981	162,000,000	$162,000,000	$162,000,000		
National Commission on the International Year of the Child	685,000		685,000		+$685,000
National Commission on Social Security	2,000,000	2,000,000	2,000,000		
Railroad Retirement Board:					
Regional Rail Transportation Protective Account	18,870,000	18,870,000	18,870,000		
Reappropriation/Extended Availability	37,646,000		37,646,000		+37,646,000
Limitation on salaries and expenses	(1,000,000)	(1,000,000)	(1,000,000)		
Total, Related agencies	74,514,000	20,870,000	59,201,000	−15,313,000	+38,331,000
Limitation on salaries and expenses	(1,000,000)	(1,000,000)	(1,000,000)		
Total, chapter VII:					
New budget (obligational) authority	3,049,015,000	1,627,346,000	2,288,231,000	−760,802,000	+660,867,000
Fiscal year 1979	(2,849,369,000)	(1,465,346,000)	(2,088,567,000)	(−760,802,000)	(−623,221,000)
Fiscal year 1981	(162,000,000)	(162,000,000)	(162,000,000)		
Reappropriation, 1979/Extended Availability	(37,646,000)		(37,646,000)		+37,646,000
Limitation	(1,000,000)	(1,000,000)	(1,000,000)		

CHAPTER VIII

LEGISLATIVE BRANCH

SENATE

SALARIES, OFFICERS AND EMPLOYEES

COMMITTEE EMPLOYEES

1979 appropriations to date	$10,528,000
1979 supplemental estimate	664,000
House allowance	----------
Committee recommendation	482,000

The Committee recommends an appropriation of $482,000 which is a decrease of $182,000 below the budget estimate. The additional funds are required to provide a standing committee allowance for the Special Committee on Aging. The Committee has denied the request of $182,000 to fund the two position increases for each standing committee authorized in the fiscal year 1978 Second Supplemental Appropriation Act and expects that these costs will be absorbed through savings.

ADMINISTRATIVE, CLERICAL AND LEGISLATIVE ASSISTANCE TO SENATORS

1979 appropriations to date	$70,881,000
1979 supplemental estimate	204,000
House allowance	----------
Committee recommendation	204,000

The Committee recommends an appropriation of $204,000 which is the same as the budget request. The additional funds are required to cover the increase in the allowances of the Senators from the States of Florida, Georgia, Minnesota, and Texas due to increases in the populations of those States.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

1979 appropriations to date	$7,785,000
1979 supplemental estimate	908,000
House allowance	----------
Committee recommendation	908,000

The Committee recommends an appropriation of $908,000 which is the same as the budget request. The additional funds are required to cover costs associated with the longevity compensation reform—$830,000—and the merit increase program—$78,000—both of which were enacted into law by Public Law 95-391, the Legislative Branch Appropriation Act, 1979.

ADMINISTRATIVE PROVISIONS

The Committee has included a number of administrative provisions f a technical or housekeeping nature. As is customary, the administrative provisions are printed in the report together with a short explanatory statement.

OFFICE OF THE PRESIDENT PRO TEMPORE

> SEC. 101. Effective October 1, 1979, the President pro tempore is authorized to appoint and fix the compensation of such employees as he deems appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $123,000 each fiscal year: *Provided further*, That the positions established by the Supplemental Appropriations Act, 1977, for the Office of the President pro tempore are abolished effective October 1, 1979.

This Administrative Provision will authorize a lump sum allowance for the Office of the President pro tempore in lieu of three statutory positions and thereby provide more flexibility in the utilization of the funds involved. No additional funds are required as a result of this change.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

> SEC. 102. Effective October 1, 1979, the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority are each authorized to appoint and fix the compensation of such employees as they deem appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $70,000 each fiscal year for each Secretary: *Provided further*, That the positions established by the Supplemental Appropriations Act, 1977, for the Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority are abolished effective October 1, 1979.

This provision changes the authorization for the Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority to a lump sum allowance rather than specified statutory positions. This action has been taken by the Committee at the request of Senators Daniel K. Inouye and Jake Garn, the respective Secretaries, who stated that the lump sum allowance would provide them with greater flexibility in the operation of their offices. This change does not require any additional funds.

OFFICE OF THE CHAPLAIN

> SEC. 103. Effective January 15, 1979, the compensation of the Chaplain of the Senate shall be $34,398 per annum in lieu of $24,948 per annum, and the Chaplain may appoint and fix the compensation of a secretary at not to exceed $20,034 per annum in lieu of not to exceed $16,632 per annum. The Chaplain may authorize such change in the compensation of his secretary on such effective date if certified in writing to the disbursing office of the Senate not later than ten days after

> the date of the enactment of this Act. During the fiscal year ending September 30, 1979, the compensation of the Chaplain and his secretary may be paid out of any funds available in any appropriation under the headings "SENATE, Salaries, Officers and Employees" in any appropriation Act.

This provision will provide for an increase in the compensation of the Senate Chaplain to an annual rate of $34,398. Information furnished the Committee on the compensation of the Chaplain indicates that this is the rate that would automatically be in effect if the salary had not been diminished by $9,417 per annum on November 1, 1969, based on the recommendation of a specially designated bipartisan Committee on the Chaplaincy appointed at the beginning of the 91st Congress. The rationale for the reduction in 1969 is explained by the following excerpt from the Report of the Committee on Appropriations (Senate Report No. 91–479) which accompanied the Legislative Branch Appropriations Bill for fiscal year 1970:

> Based on the recommendation of a specially designated bipartisan Committee on the Chaplaincy, appointed at the beginning of the 91st Congress, the committee has included language in the bill adjusting the compensation of the Chaplain of the Senate to approximately $10,000 per annum (in view of his other sources of income) and permitting him to employ and fix the compensation of a secretary at not to exceed approximately $8,500 per annum. This proposal will permit periodic reviews by the Committee on the Chaplaincy.

After a review and reevaluation of the Chaplain's compensation, together with the action of the House of Representatives, on January 15, 1979, regarding the compensation of the Chaplain of the House, the Committee strongly recommends this increase in compensation particularly in view of the fact that the circumstances, existing in 1969, "(in view of his other sources of income)" are no longer applicable.

The increase of the maximum annual salary for the Secretary to the Chaplain is recommended at the request of the Chaplain.

The bill does not include any additional funds to cover these changes inasmuch as the costs will be absorbed by savings from existing appropriations.

PAY ADJUSTMENTS

> Sec. 104. Effective August 1, 1979, the annual rates of compensation and maximum annual rates of compensation provided in the Order of the President pro tempore of the Senate issued on October 9, 1978, under authority of section 4 of the Federal Pay Comparability Act of 1970 shall be payable to employees covered by such Order, notwithstanding any other provision of law. During the fiscal year ending September 30, 1979, any increase in compensation payable by reason of the preceding sentence to employees covered by such Order may be paid out of any funds available in any appropriation under the heading "SENATE" in any appropriation Act.

This provision puts into effect, on August 1, 1979, the 5.5 percent comparability increase authorized by the President pro tempore of the Senate on October 9, 1978, for the principal employees who did not receive an increase on October 1, 1978, and who have not had an adjustment in compensation since March 1, 1977, during which time, the cost of living has increased by 18.3 percent.

Since March 1, 1969, the cost of living has advanced by 95.3 percent while the salaries of the principal employees of the Senate have advanced by approximately 32 percent.

In contrast, other employees under the jurisdiction of these employees have enjoyed pay increases and adjustments totaling 86.8 percent which is still below the cost of living increase for the period and substantially below the cost of living in terms of disposable income.

No additional funds have been included in the bill to cover this provision inasmuch as the costs will be absorbed by savings from existing appropriations.

OFFICE OF THE SECRETARY

SEC. 105. Effective on the first day of the first month which begins after the date of the enactment of this Act—

(1) the maximum annual rate of compensation of the Chief Reporter of Debates, Office of the Secretary of the Senate, shall be the maximum rate prescribed in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(f));

(2) the maximum annual rate of compensation of the Registrar, Office of the Secretary of the Senate, is increased to $24,948; and

(3) the title of a Reference Assistant, Office of the Secretary of the Senate, is changed to Chief, Bill Status Unit.

The Committee recommends that the maximum annual rate of compensation of the Chief Reporter of Debates be increased to the general maximum salary that may be paid to Senate employees generally. Because of longevity compensation entitlement, this will not result in an actual increase for the incumbent, but it will provide a greater spread between the maximum annual rate of the Chief Reporter and his subordinate Reporters of Debates.

Recommended also is an increase in the maximum annual rate of compensation for the position of Registrar in the Office of the Curator from $22,491 to $24,948.

The title change of a position in the Library from Reference Assistant to Chief, Bill Status Unit, will more accurately reflect the responsibilities assigned to the individual occupying the position.

The bill does not include any additional funds to cover these changes inasmuch as the costs will be absorbed by savings from existing appropriations.

MERIT COMPENSATION

With respect to the recommended position title change in the Office of the Secretary, the Committee notes that the eligibility requirements of the merit compensation program are as follows: An employee (1) must have occupied a position for at least 2 years, and (2) must be at the maximum annual salary rate for the position at the time of consideration. These eligibility requirements were never meant to preclude from consideration an individual whose title is changed by law, but who has been and continues to perform the same work. This program is designed to reward performance and is not tied to the title associated with the position. This means that as long as an employee has been performing the same duties for at least 2 years regardless of position title and at the time of consideration for merit compensation, is being paid the maximum salary, merit compensation may be authorized by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper. This is a clarification of existing law and does not require additional funding.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

SEC. 106. Effective on the first day of the first month which begins after the date of the enactment of this Act—

(1) the maximum annual rate of compensation of the Deputy Sergeant at Arms and Doorkeeper of the Senate shall be the same as the maximum annual rate of compensation of the Assistant Secretary of the Senate;

(2) the maximum annual rate of compensation of the Administrative Assistant to the Sergeant at Arms and Doorkeeper of the Senate shall be the same as the highest maximum annual rate of compensation that may be paid to an employee in the office of a Senator; and

(3) the maximum annual rate of compensation of the Executive Assistant to the Sergeant at Arms and Doorkeeper of the Senate shall be the same as the second highest maximum annual rate of compensation that may be paid to an employee in the office of a Senator.

During the fiscal year ending September 30, 1979, the increases in ompensation payable under this section may be paid out of any funds vailable in any appropriation under the headings "SENATE", "Salries, Officers and Employees" in any appropriation Act.

At the request of the Sergeant at Arms and Doorkeeper, the Comnittee recommends an increase of the maximum annual rate of comensation for three positions; namely, the Deputy Sergeant at Arms nd Doorkeeper, and the Administrative Assistant and Executive ssistant to the Sergeant at Arms and Doorkeeper. The increase for ne Deputy Sergeant at Arms and Doorkeeper corrects a legislative versight and establishes the salary for this position at the same level s the Assistant Secretary of the Senate. The increase for the Admintrative Assistant establishes the salary for the position at the same vel as the highest salary that may be paid to an employee in the office a Senator. The increase for the Executive Assistant, who has day-toy responsibilities for many security aspects of the Senate, will establish the salary for the position at the same level as the second highest salary that may be paid to an employee in the office of a Senator.

The bill does not include any additional funds to cover these changes as the costs will be absorbed by savings from existing appropriations.

EXPENSE ALLOWANCE FOR THE SECRETARY OF THE SENATE AND SERGEANT AT ARMS AND DOORKEEPER

SEC. 107. (a) Effective July 1, 1979, there is authorized an expense allowance for the Office of the Secretary of the Senate and the Office of Sergeant at Arms and Doorkeeper of the Senate which shall not exceed $2,000 each fiscal year for each such office. Payments made under this section shall be reimbursements only for actual expenses (including meals and food-related expenses) incurred in the course of conducting orientation seminars for Senators and members of their staffs, and other similar meetings, in the Capitol Building or the Senate Office Buildings. Such payments shall be made upon certification and documentation of such expenses by the Secretary and Sergeant at Arms, respectively, and shall be made out of the contingent fund of the Senate upon vouchers signed by the Secretary and the Sergeant at Arms, respectively. Amounts received as reimbursement of such expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under the Internal Revenue Code of 1954.

(b) Effective July 1, 1979, section 105 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 69a) is repealed.

This provision will increase the fiscal year expense allowance for the Secretary of the Senate and the Sergeant at Arms and Doorkeeper to not to exceed $2,000 for each office to cover expenses incurred, which are not currently reimbursable, in conducting orientation seminars for Senators and their staffs, and similar meetings for other activities of the Senate. Payments may be received only for actual expenses incurred upon vouchers signed by the Secretary or Sergeant at Arms and will not be subject to being declared as income or deducted as expenses with respect to the income tax laws.

During calendar years 1978 and 1979, to date, some of the topics that have been covered by seminars, which were attended by more than 900 individuals, are as follows:

1. Legislative Process.
2. Office Accounting.
3. Getting the Most Out of Your Interns.
4. Records Management.
5. Micrographics.
6. Crisis Management.
7. Principles of Data Processing.
8. Managing the Reception Desk.
9. Motivation—A Team Concept.

Other topics under consideration for proposed seminars are:

1. Senate Library Services.
2. Ethics and Reporting Requirements.
3. Federal Election Commission and Provisions of the Federal Election Campaign Act.
4. Supervision.
5. Time Management.
6. Information System Concepts.
7. Hiring and Firing.

RECOVERY OF OVERPAYMENT OF DECEMBER SALARY

SEC. 108. (a) The first section of the joint resolution entitled "Joint Resolution relating to the payment of salaries of employees of the Senate", approved April 20, 1960 (2 U.S.C. 60c–1), is amended by adding at the end thereof the following new sentence: "In any case in which an officer or employee of the Senate dies during the month of December and the full compensation of such officer or employee for such month has been disbursed by the Secretary of the Senate before he receives notice of such death, no recovery shall be made of any portion of the compensation so disbursed.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

This provision will relieve the Secretary of the Senate from recovering any overpayment of salary for the month of December in the event of the death of an employee after the disbursement of salaries for December. By law, Senate employees are paid for the full month of December on the 20th of December. This provision is applicable only if notification of the death of an employee is received by the Secretary of the Senate after the salaries for the month have been disbursed.

MERGING OF APPROPRIATIONS

SEC. 109. (a) Any funds made available for obligation during the fiscal year ending September 30, 1979, by section 101 of the Legislative Branch Appropriation Act, 1979, shall be merged with the funds appropriated for the same purposes by such Act and shall remain available until expended.

(b) Any funds appropriated or made available for the fiscal year ending September 30, 1979, under the heading "Senate" in any appropriation Act shall, notwithstanding any other provision of law, remain available for obligation through September 30, 1980, for the same purposes for which appropriated or made available, and shall be merged with the funds appropriated for such purposes for the fiscal year ending September 30, 1980, and shall remain available until expended.

This administrative provision would extend the availability of any surplus funds remaining at the close of fiscal year 1979.

JOINT ITEMS

CONTINGENT EXPENSES OF THE SENATE

JOINT COMMITTEE ON PRINTING

1979 appropriations to date	$656,000
1979 supplemental estimate	95,000
House allowance	60,000
Committee recommendation	60,000

The Committee recommends an appropriation of $60,000, the same as the House allowance, and $35,000 below the budget request. This amount is necessary for increased expenses due to the Joint Committee's efforts to revise title 44 of the U.S. Code which will have a significant effect on eliminating waste and unnecessary publications in the Government printing program. The Committee concurs in the House action denying funds for additional staff.

EDUCATION OF PAGES

EDUCATION OF CONGRESSIONAL PAGES AND PAGES OF THE SUPREME COURT

1979 appropriations to date	$205,800
1979 supplemental estimate	27,600
House allowance	-------
Committee recommendation	-------

The Committee concurs in the House action which denied the request of $27,600 for an additional teaching position and related expenses. The House action is based on a recent General Accounting Office report indicating that the quality of education at the Capitol Page School is satisfactory and that the school is providing an acceptable curriculum to its students.

CAPITOL GUIDE SERVICE

SALARIES AND EXPENSES

1979 appropriations to date	$544,000
1979 supplemental estimate	20,000
House allowance	20,000
Committee recommendation	20,000

The Committee recommends an appropriation of $20,000, which is the same as the budget estimate and the House allowance. The additional amount is required to finance recently adjusted longevity pay schedules.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

1979 appropriations to date	$10,328,600
1979 supplemental estimate	600,000
House allowance	-------
Committee recommendation	600,000

The Committee recommends the budget request of $600,000, of which $100,000 will replace old and broken wiring, insulators and associated transformers in the Russell Senate Office Building, and $500,000 will provide for the replacement of 100 70-year-old windows in the Russell Senate Office Building. Replacement of the windows in the Russell Senate Office Building was first authorized in fiscal year 1977; since then, 100 windows have been manufactured and are in the process of being installed.

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

1979 appropriations to date	$2,776,000
1979 supplemental estimate	425,000
House allowance	71,000
Committee recommendation	71,000

The Committee recommends an appropriation of $71,000, the same amount as the House allowance and $354,000 under the budget estimate. These funds are for 39 skilled workers at the James Madison Memorial Building. Due to the slippage in building occupancy, the request has been reduced from 6-month to 1-month funding.

RELATED AGENCIES

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

1979 appropriations to date	$92,249,000
1979 supplemental estimate	3,360,000
House allowance	----------
Committee recommendation	----------

The Committee concurs in the House decision to deny funds at this time for additional staff related to the occupancy of the James Madison Memorial Building. In lieu of this request, the Committee concurs in the House-approved reprograming request in the amount of $590,000 to provide 54 guard personnel and 67 additional personnel, including custodial workers, necessary for the beginning occupancy of the James Madison Memorial Building. The Committee directs the Library of Congress to determine the most cost-effective method of providing custodial care for the new building, including investigating the feasibility of commercial contracting.

FURNITURE AND FURNISHINGS

1979 appropriations to date	$7,694,000
1979 supplemental estimate	500,000
House allowance	----------
Committee recommendation	----------

The Committee concurs in the action of the House which denied the requests of $500,000 for special equipment and $2,500,000 for furniture and furnishings through release of section 311 funds. The Library has been appropriated $25,000,000 to date for Madison building furniture and furnishings. Existing furniture should be used to supplement the furniture that will be provided through these funds, if necessary, and a more complete assessment of need should be made during the first year of building occupancy.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

1979 appropriations to date	$23,200,000
1979 supplemental estimate	980,000
House allowance	413,000
Committee recommendation	413,000

The Committee recommends an appropriation of $413,000, a decrease of $567,000 below the budget estimate and the same as the House allowance. The House has indicated that a recent review of the depository law library program reveals a need for an amount of $813,000 for fiscal year 1979. Inasmuch as $400,000 of the amount will be covered by an internal reprograming of existing resources, an amount of $413,000 should be sufficient to satisfy the current requirement.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

1979 appropriations to date	$185,756,000
1979 supplemental estimate	5,500,000
House allowance	150,000
Committee recommendation	150,000

The Committee recommends an amount of $150,000, a reduction of $5,350,000 below the budget request and the same as the House allowance. The budget request presented by the General Accounting Office was to provide funding for 82 staff years. The House allowance will provide 2-month funding for 25 additional staff members. The Committee concurs in the House allowance.

GENERAL PROVISION

SEC. 101. Any funds appropriated under the heading "JOINT ITEMS," "Official Mail Costs" in any appropriation Act for the Legislative Branch for the fiscal year ending September 30, 1979, shall remain available until expended, for the same purposes for which appropriated.

This provision would extend the availability of any unobligated funds remaining at the close of fiscal year 1979.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

H. Doc. No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or –)	
					Budget estimates	House bill
	CHAPTER VIII					
	LEGISLATIVE BRANCH					
	SENATE					
	SALARIES, OFFICERS AND EMPLOYEES					
	Committee employees	$664,000		$482,000	–$182,000	+$482,000
96-56	Administrative, clerical, and legislative assistance to Senators	204.000		204,000		+204,000
	Agency contributions and longevity compensation	908,000		908,000		+908,000
	Total, salaries, officers and employees	1,776,000		1,594,000	–182,000	+1,594,000
	Total, Senate	1,776,000		1,594,000	–182,000	+1,594,000
	HOUSE OF REPRESENTATIVES					
	SALARIES, OFFICERS AND EMPLOYEES					
96-97	Office of the Clerk	264,000	$264,000	264,000		
96-108	Office of the Sergeant at Arms	2,029,000	1,450,000	1,450,000	–579,000	
	Total, House of Representatives	2,293,000	1,714,000	1,714,000	–579,000	
	JOINT ITEMS					
	CONTINGENT EXPENSES OF THE SENATE					
96-56	Joint Committee on Printing	95,000	60,000	60,000	–35,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

H. Doc. No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
					Budget estimates	House bill
	CHAPTER VIII—Continued					
	JOINT ITEMS—Continued					
	EDUCATION OF PAGES					
	Education of congressional pages and pages of the Supreme Court	$27,600			−$27,600	
	CAPITOL GUIDE SERVICE					
	Salaries and expenses	20,000	$20,000	$20,000		
	Total, joint items	142,600	80,000	80,000	−62,600	
	ARCHITECT OF THE CAPITOL					
	CAPITOL BUILDINGS AND GROUNDS					
96-106	Senate office buildings	600,000		600,000		+$600,000
96-82	House office buildings	400,000	400,000	400,000		
	Installation of solar collectors in House office buildings	3,000,000	1,500,000	1,500,000	−1,500,000	
	Total, Capitol buildings and grounds	4,000,000	1,900,000	2,500,000	−1,500,000	+600,000

	LIBRARY BUILDINGS AND GROUNDS					
	Structural and mechanical care	425,000	71,000	71,000	−354,000	
	Total, Architect of the Capitol	4,425,000	1,971,000	2,571,000	−1,854,000	+600,000
	LIBRARY OF CONGRESS					
	Salaries and expenses	3,360,000			−3,360,000	
	Furniture and furnishings	500,000			−500,000	
	(Release of sec. 311 funds)	*(2,500,000)*			*(−2,500,000)*	
	Total, Library of Congress	3,860,000			−3,860,000	
	(Release of sec. 311 funds)	*(2,500,000)*			*(−2,500,000)*	
	GOVERNMENT PRINTING OFFICE					
96-58	Office of Superintendent of Documents: Salaries and expenses	980,000	413,000	413,000	−567,000	
	GENERAL ACCOUNTING OFFICE					
	Salaries and expenses	5,500,000	150,000	150,000	−5,350,000	
	Total, chapter VIII:					
	New budget (obligational) authority	18,976,600	4,328,000	6,522,000	−12,454,600	+2,194,000
	(Release of sec. 311 funds)	*(2,500,000)*			*(−2,500,000)*	

MILITARY CONSTRUCTION

1979 appropriations to date	$3,880,863,000
1979 supplemental estimate	138,861,000
House allowance	
Committee recommendation	

The Department of Defense requested a total of $147,480,000 in supplemental appropriations for military construction and family housing programs: $138,861,000 under title I, to offset the effects of dollar devaluation overseas and accommodate certain new requirements, and $8,619,000 under title II to fund already-enacted civilian pay raises.

Due to the lack of necessary authorizing legislation, the Committee has not recommended supplemental appropriations at this time. The associated requirements will be addresed within the context of the regular fiscal year 1980 budget process.

This position is consistent with action taken by the House.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
MILITARY CONSTRUCTION					
Military construction, Army	$70, 334, 000			−$70, 334, 000	
Military construction, Navy	1, 053, 000			−1, 053, 000	
Military construction, Air Force	7, 567, 000			−7, 567, 000	
Military construction, defense agencies	9, 377, 000			−9, 377, 000	
Subtotal, military construction	88, 331, 000			−88, 331, 000	
FAMILY HOUSING					
Family housing, defense	50, 530, 000			−50, 530, 000	
Total, new budget (obligational) authority	138, 861, 000			−138, 861, 000	

CHAPTER IX

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

1979 appropriations to date	$660, 945, 000
1979 supplemental estimate	13, 892, 000
House allowance	4, 100, 000
Committee recommendation	4, 100, 000

A total of $13,892,000 was requested to compensate for increased operating costs resulting from the decline in value of the U.S. dollar in foreign exchange and to comply with the Comptroller General's Decision that the Department of State be charged by the Deparment of the Treasury for the value of funding losses incident to the evacuation of Vietnam in April, 1975.

As a result of exchange losses between December 1977 and December 1978, the Department requested an increase of $6,000,000 to maintain the same level of activity as approved for fiscal year 1979. The exchange losses have occurred primarily in the following six countries: Japan, Federal Republic of Germany, France, Belgium, Italy, and the United Kingdom.

There has been some improvement of the U.S. dollar in relation to the foreign currencies since the formulation of the request and the amount of $4,100,000 allowed by the House is considered adequate by the Committee.

The Committee has not approved the request for $7,892,000 resulting from decision No. B–186348 dated July 18, 1977, by the Comptroller General ruled that adjustment for funding losses incident to the evacuation of Vietnam in April, 1975, should be charged to the Department of State's salaries and expenses appropriation. This loss, which was due to the emergency evacuation of Saigon in April of 1975, consists of piasters left in the Embassy; U.S. currency which was reportedly destroyed; checks which were issued by the U.S. Disbursing Officer (USDO) where it is not possible to identify the chargeable appropriation; and cash payments and other transactions for which there is no accurate documentation available.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

1979 appropriations to date	$38, 107, 000
1979 supplemental estimate	3, 462, 000
House allowance	3, 462, 000
Committee recommendation	3, 462, 000

The Committee recommends a supplemental appropriation of $3,462,000 as required by section 865(a)(3) of the Foreign Service Act of 1946, as amended which states that any new statute which authorizes increases in salaries on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in 30 equal installments—with interest—and with the first payment due as of the end of the fiscal year in which each change is effective.

The October 8, 1978 pay raise creates an estimated unfunded liability of $55,800,000 for the Department of State and the International Communication Agency. Therefore, for fiscal year 1979, $3,462,000 is required to provide the first of 30 equal annual payments for salary increases effective in October 1978.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

1979 appropriations to date	$327, 676, 000
1979 supplemental estimate	58, 357, 000
House allowance	58, 357, 000
Committee recommendation	58, 357, 000

The Committee recommends $58,357,000, the same amount as the House bill, to provide additional payments to international organizations for nondiscretionary increases primarily related to exchange rate problems and to restore funds for technical assistance programs not included in the regular bill.

With regard to the technical assistance, the Congress has already nullified the prohibition inserted in the Department of State Appropriation Act, 1979, barring the use of U.S. assessed contributions for the furnishing of technical assistance by the United Nations or any of its specialized agencies.

The following is the allocation of the amount recommended:

United Nations	$23, 393, 000
United Nations Educational, Scientific and Cultural Organization	4, 754, 000
World Health Organization	23, 203, 000
Food and Agricultural Organization	3, 200, 000
World Meteorological Organization	1, 396, 000
World Intellectual Property Organization	152, 000
International Atomic Energy Agency	2, 115, 000
International Wheat Council	144, 000
Total	58, 357, 000

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

1979 appropriations to date	$27, 000, 000
1979 supplemental estimate	40, 000, 000
House allowance	40, 000, 000
Committee recommendation	40, 000, 000

On March 19, 1978, the United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council Resolution 425 to: (1) restore international peace and security in Southern Lebanon; (2) confirm the withdrawal of Israeli Forces from Lebanon; and (3) restore Lebanese sovereignty in the South of Lebanon. UNIFIL, comprised of 6,000 troops, has been highly successful in achieving the first two goals of its mandate, and it is anticipated that the Security Council will pass a resolution extending it.

The estimated cost for UNIFIL's continued operations throughout fiscal year 1979 is $137 million. The U.S. share, based upon the UNEF/UNDOF scale of assessments, will be $40 million or 29.3 percent of the total.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

1979 appropriations to date	$12,000,000
1979 supplemental estimate	961,000
House allowance	750,000
Committee recommendation	750,000

The Committee recommends $750,000 to meet increased costs of maintaining United States missions to international organizations in Geneva, Vienna, Paris, and Rome resulting from declines in the value of the dollar abroad. The amount recommended is the same as allowed by the House and is $211,000 less than the supplemental request. The reduction is possible because of the improvement of the U.S. dollar in relation to foreign currencies since formulation of the request.

INTERNATIONAL COMMISSIONS

INTERNATIONAL FISHERIES COMMISSIONS

1979 appropriations to date	$6,600,000
1979 supplemental estimate	30,000
House allowance	---------
Committee recommendation	---------

This supplemental was requested for the initial year assessed costs of U.S. membership in the Northwest Atlantic Fisheries Organization (NAFO).

The Fishery Conservation and Management Act of 1976 called for the prompt renegotiation of any existing fishery treaty inconsistent with the purposes, policy or provisions of the act. The conference committee report on the FCMA stated that it was the opinion of the Committee that the United States should withdraw from the International Convention for Northwest Atlantic Fisheries (ICNAF) before March 1, 1977, the effective date of the act, if the treaty had not been renegotiated to conform to the act by that date. After attempts at renegotiation, the United States withdrew from ICNAF on December 31, 1976.

Since the U.S. withdrawal from ICNAF, several attempts were made to form a new regulatory body that would have authority in the waters formerly regulated by ICNAF minus those territorial waters now extending 200 nautical miles seaward from the coastline of the United States and the coastline of Canada. Final agreement on the format to be taken by the new organization, the Northwest Atlantic Fisheries Organization (NAFO), was reached in late Spring of 1978, and the new convention was signed in the fall of 1978.

The Committee supports the goal of negotiating new fisheries agreements consistent with the FCMA, but because the United States has not yet joined NAFO, the Committee believes that funding would be inappropriate at this time.

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

1979 appropriations to date	$29,441,000
1979 supplemental estimate	(490,000)
House allowance	
Committee recommendation	250,000

Subsequent to House action, there was transmitted in House Document 96–145 a supplemental appropriation request of $490,000 consisting of 38 positions and $461,000 to implement certain recommendations of the President's reorganization project on Federal legal representation; and three positions and $29,000 to establish an Office of Small and Disadvantaged Business Utilization. The Committee recommends $250,000 for these items because the Department cannot staff-up the legal representation project as quickly as anticipated.

This request was submitted on the basis that the funds were to be derived by transfer out of savings in other accounts due to a lower number of Federal prisoners. Similar requests for financing from these savings were also made for the General Legal Activities, Federal Bureau of Investigation, and the Immigration and Naturalization Service. However, these savings were anticipated in the House bill and applied to the increased pay costs in Title II for the Department.

The recommendations of the Committee for these four items technically adds $7,795,000 to the budget authority in title I. However, when taken together with the recommendations in title II, the estimates have been decreased by $240,000 on an overall basis.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

1979 appropriations to date	$91,007,000
1979 supplemental estimate	(974,000)
House allowance	
Committee recommendation	974,000

Subsequent to House action the Department of Justice also requested in House Document 96–145 a supplemental appropriation of $974,000 consisting of $474,000 fund the Office of Special Counsel appointed on May 23, 1979 (Paul J. Curran) for an inquiry into the various loan transactions between the National Bank of Georgia and the Carter warehouse; and $500,000 for the payment to fees to private counsel for representation of former and present employees who are sued civilly for money damages in suits involving activities undertaken in the scope of Federal employment. The full amount requested is recommended.

SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS

1979 appropriations to date	$196,700,000
1979 supplemental estimate	226,000
House allowance	(185,000)
Committee recommendation	(185,000)

The bill includes $185,000 to establish an executive staff in the Department of Justice to prepare for implementation of section 224 of Public Law 95–598, the Bankruptcy Reform Act of 1978. That section created a pilot program in 18 judicial districts wherein 10 U.S. Trustees will be responsible for administration of bankruptcy cases. The $185,000, which is to be derived by transfer from "Support of United States Prisoners", represents a reduction of $41,000 from the request. This amount will enable the Department to establish criteria for the recruitment and appointment of U.S. Trustees and their staffs, write procedures for the performance of trustee functions, obtain facilities to house and equip the trustee offices, and develop information systems to manage resources and to evaluate performance.

Language has been inserted in the bill to repeal the numerical ceilings on the lease and purchase of vehicles by the U.S. Marshals Service.

FEES AND EXPENSES OF WITNESSES

1979 appropriations to date	$20,000,000
1979 supplemental estimate	6,464,000
House allowance	6,464,000
Committee recommendation	6,464,000

Public Law 95–535, approved on October 17, 1978, established the payment of higher fees, per diem and travel payments for fact witnesses. Attendance fees were increased by 50 percent, from $20 to $30 per day; per diem increased by 250 percent from $16 to $40 per day; mileage rates increased by 70 percent, from 10 cents to 17 cents per mile; and detained witness fees increased from $1 to $30 per day. This request assumes no increase in the number of fact witnesses.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

1979 appropriations to date	$581,847,000
1979 supplemental estimate	(2,636,000)
House allowance	----------
Committee recommendation	2,636,000

Subsequent to House action the Department of Justice also requested in House Document 96–145 a supplemental appropriation amounting to $2,636,000 for the procurement of an airborne surveillance system to provide capabilities not presently available to the FBI for foreign counterintelligence. The details of this project are classified and the full amount requested is recommended by the Committee.

Language has been included so that this appropriation will be available only upon enactment of necessary increases in the appropriation and intelligence authorizations; and providing that $3,500,000 appropriated in the Department of Justice Appropriation Act, 1979 for constructing a forensic science training and research facility at Quantico, Va., shall remain available until September 30, 1980 due to delays in awarding the constructing contract.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

1979 appropriations to date	$299,350,000
1979 supplemental estimate	[1] 200,000
House allowance	-------
Committee recommendation	3,935,000

The Committee agrees with the action of the House in denying $200,000 in additional funds requested for the Immigration and Naturalization Service because of the increase in the number of refugees paroled into the United States. This workload can be absorbed by the INS.

Subsequent to House action the Department of Justice also requested in House Document 96–145 a supplemental appropriation amounting to $3,935,000 consisting of $3,335,000 for the renovation of the former Border Patrol Academy at Port Isabel, Tex. into an illegal alien processing center; and $600,000 to update the Non-Immigrant Document Control System and upgrading of INS's word processing equipment. The renovation of the Port Isabel site involves upgrading existing structures to allow detention of undocumented aliens for limited periods pending completion of deportation proceedings.

The other funds will be directed towards implementation of existing law which require the maintenance of records on the status of nonimmigrant aliens and will be used to accelerate the key punching of arrival and departure documents; and will hopefully avoid the situation of several months ago when the Service was unable to produce records of the status of the Iranian student demonstrators in Chicago.

The Committee recommends approval of $3,935,000 for the latter two items. Language has also been included to provide that the $3,335,000 for the Port Isabel facility remain available until September 30, 1980 in order to avoid the above cited FBI situation.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

PARTICIPATION IN UNITED STATES EXPOSITIONS

1979 appropriations to date	-------
1979 supplemental estimate	$200,000
House allowance	-------
Committee recommendation	-------

The Committee has not approved $200,000 requested for developing a plan for Federal participation in the Knoxville International Energy Exposition to be held in 1982. Department officials have indicated that work on the development of a plan for Federal participation in the Knoxville Exposition is already underway. Consequently, the Committee believes that the remaining tasks associated with the development of such a plan can be carried out within the funds currently available to the Department.

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[1] In addition $3,935,000 was requested by transfer.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

[Increase in limitation]

1979 appropriations to date	$507,525,000
1979 supplemental estimate	----------
House allowance	(96,000,000)
Committee recommendation	(96,000,000)

The Committee has approved the full $96,000,000 requested increase in the limitation on obligations for new loans and guarantees from the Economic Development Revolving Fund. The Committee recommendation would thus increase the limitation on such obligations to $171,000,000 for fiscal year 1979.

The special steel program at EDA was established in early 1978 to assist the U.S. steel industry to meet government-mandated environmental standards and to modernize so that it could better face foreign competition. Later that year, the Committee approved the use of $100,000,000 from the Economic Development Revolving Fund for a special program of loan guarantees to the steel industry.

It was anticipated that this program would be substantially completed during fiscal year 1978. However, only $4,000,000 was obligated because of the unanticipated complexity of project applications. EDA officials indicated that substantial progress has been made in the review of pending applications and requested that the entire remaining balance of $96,000,000 be made available.

During the course of its consideration of this bill the Committee made several inquiries into the progress of the steel loan guarantee program. On June 4, 1979, the Assistant Secretary for Economic Development was extensively questioned about that portion ($63,500,000) of a proposed loan guarantee to the Wheeling-Pittsburgh Steel Co. for construction of a rail mill. On June 11, 1979, the chairman of Wheeling-Pittsburgh testified in support of this assistance and the President of CFI and representatives of Bethlehem Steel companies spoke in opposition.

The Wheeling-Pittsburgh testimony indicated that they had obtained a company-wide consent decree from the Environmental Protection Agency covering plants in Ohio and Pennsylvania, employing 14,500 people. The estimated costs of these improvements are $86,500,000. It was stated that the EPA approval was expressly conditioned on the issuance of guarantees by EDA and the Farmers Home Administration. In addition to the environmental improvements, Wheeling-Pittsburgh plans to construct a rail mill at a Monessen, Pennsylvania plant, at a cost of $105,000,000. The rail mill will adjoin the site of a rod and wire mill closed in 1972 as a direct casualty of cheap imports, and is designed to produce long length, high quality rails.

Wheeling-Pittsburgh said the two projects were inseparably tied together: the enhanced profitability and stability of the rail mill is an essential part of the financing of the required environmental improvements: while the pollution control expenditures are necessary for them to stay in busines.

The following summarizes the Wheeling-Pittsburgh financial plan:

Rail mill:	
EDA-guaranteed loan	$63,500,000
Pennsylvania Industrial Development Authority loan	10,000,000
Wheeling-Pittsburgh equity	31,500,000
Subtotal	105,000,000
Pollution control:	
FmHA-guaranteed loan	50,000,000
EDA-guaranteed loan	36,500,000
Subtotal	86,500,000
Total federally guaranteed funds	150,000,000
Total State (PIDA)	10,000,000
Total equity	31,500,000

The witnesses from CFI and Bethlehem Steel strongly opposed that portion of the proposed EDA assistance to permit an additional company into the domestic rail business which they share with United States Steel. They disputed Wheeling-Pittsburgh's industry capacity figures, and said that current sustainable capacity was approximately 1.5 million tons and that demand was projected at 1.1 million tons in 1985.

The Committee continues to endorse EDA loan guarantees for environmental quality improvements and for modernization of steel plants in order to compete with foreign imports. The Committee has been concerned since the inception of the special steel program that it might be used to bail out financially weak companies. The Wheeling-Pittsburgh project is a close call with respect to the objectives and guidelines of this program. The rail mill will replace a facility closed by foreign imports but, instead of modernizing the rod and wire operation formerly produced at Monessen, it will mark the entry of Wheeling-Pittsburgh into a new product line. Wheeling-Pittsburgh says it needs to diversify to achieve the profitability and stability needed to repay the loans for the pollution improvements. Its competitors say there is no room for another company in the rail business and that the entry of Wheeling-Pittsburgh will force lay-offs in their plants.

The Committee believes there are adequate safeguards in section 702 of the Public Works and Economic Development Act to insure that assistance is not authorized when it will result in excess capacity. The Committee has some reservations about the depth of the 702 study dated May 2, 1979 that found "no adverse effects on efficient competing rail mills and that the additional output of rail will be absorbed by increasing demand," but this is a matter to be determined by the Secretary of Commerce.

The approval by the Committee of the full amount requested does not constitute approval or disapproval of the Wheeling-Pittsburgh loan guarantee. The Committee holds the EDA responsible for upholding the law as well as the intent of the program.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

1979 appropriations to date	----------
1979 supplemental estimate	$52,000,000
House allowance	----------
Committee recommendation	60,000,000

A 1979 budget supplemental transmitted too late for consideration by the House, is recommended to continue construction of NOAA's Western Regional Center in Seattle, Wash. The Western Regional Center was begun in fiscal year 1976 with an initial appropriation of $1,000,000 for the preliminary design of the facility. This was followed by appropriations of $970,000 and $15,500,000 in fiscal years 1977 and 1978, respectively, to complete design work and initiate construction. However, dredging and pier construction at the site were halted on February 24, 1978, by a U.S. District Court injunction. The injunction was in response to what the court considered certain inadequately addressed issues in the environmental impact statement field in behalf of the center's construction. The issues concerned navigational hazards on Lake Washington and alternative and split site possibilities. NOAA remedied these deficiencies in a supplemental environmental impact statement filed in November 1978, and on April 30, 1979, the injunction was lifted.

The Committee recommends $60,000,000 in no year funds for construction of the regional center. This is $8,000,000 more than the amount requested in order to provide funding for the project including the completion of site improvements and landscaping, the research I building, a reception center, and an education center.

Coastal Zone Management

1979 appropriations to date	$57, 200, 000
1979 supplemental estimate	7, 000, 000
House allowance	6, 500, 000
Committee recommendation	6, 500, 000

The Coastal Zone Management Act of 1972 (Public Law 92–583), was enacted to encourage and to assist States in dealing with the increasing and competing demands upon the Nation's coastal areas.

Section 306 of the Coastal Zone Management Act provides for annual grants to coastal State and territorial governments, on an 80 percent Federal, 20 percent State matching basis, for the administration of coastal zone management programs approved by the Secretary of Commerce. The approved State/territorial management program must be a comprehensive statement that sets out the State's, or territory's, objectives for how coastal lands and waters should be used. It must also establish the organization and authority that the State/territory will employ to achieve the objectives. Various levels of government within a State/territory, including local government, must be accorded a substantial role in the implementation of the management program. Through 1978, 13 States/territories have achieved program approval status.

The amount recommended will provide Federal assistance to implement the programs of six States/territories which are expected to complete developmental requirements for their coastal management plans in fiscal year 1979. Current funding can support only the management programs of the 13 States/territories approved through fiscal year 1978. The supplemental will assist Alabama, Alaska (partial). Delaware, Guam, South Carolina, and the Virgin Islands.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

1979 appropriations to date	
1979 supplemental estimate	$3,500,000
House allowance	500,000
Committee recommendation	2,000,000

The purpose of the request is to provide authority for expenditures for compensation awards from the Fishing Vessel and Gear Damage Fund established by Public Law 95-376.

The Secretary of Commerce is required by the Fishermen's Protective Act, as amended by Public Law 95-376, to compensate domestic fishermen whose fishing vessels have been lost, damaged, or destroyed by foreign vessel operations in the U.S. Fishery Conservation Zone or whose fishing gear has been lost, damaged, or destroyed in the zone by foreign vessels, other domestic vessels, or acts of God. Both administrative costs and compensation awards will be funded by a mandatory surcharge—up to 20 percent—of fees paid by foreign fishermen in the zone. The fiscal year 1979 fund availability is estimated to be $3.5 million based on a 20-percent surcharge applied to the approximately $17.5 million of foreign fishing fees. Public Law 95-376 requires that any expenditures from the Fishing Vessel and Gear Damage Compensation Fund be provided for in advance in appropriations acts.

The Committee recommends $2,000,000 to initially implement the program, an increase of $1,500,000 over the amount allowed by the House of Representatives.

FISHERMEN'S CONTINGENCY FUND

1979 appropriations to date	
1979 supplemental estimate	$600,000
House allowance	300,000
Committee recommendation	600,000

Title IV of the Outer Continental Shelf Lands Act Amendments of September 18, 1978, Public Law 95-372, section 492(e) established the Fishermen's Contingency Fund. The fund is to be used by the Secretary of Commerce to compensate domestic fishermen for the damage or loss of fishing gear, and any resulting economic loss due to activities related to oil and gas exploration, development, and production in any area of the Outer Continental Shelf.

For purposes of administration, the Secretary of Commerce is authorized to establish an area account within the fund for any area of the Outer Continental Shelf. Any holder of a lease, an exploration permit, easement, or right of way in such an area is required to pay to the Secretary of the Interior an amount not to exceed $5,000 per lease, permit, easement, or right of way per calendar year. The Secretary of the Interior will deposit these collections in the appropriate area accounts established by the Secretary of Commerce.

Each area account will be maintained at a level not to exceed $100,000 and, if depleted, will be replenished by assessments of holders of leases, exploration permits, easements, and rights of way in the area. Implementation of title IV by the Secretary of Commerce will include establishment of seven area accounts with estimated deposits of $600,000 in fiscal year 1979.

The Committee recommends the amount of the budget estimate which is $300,000 more than allowed by the House.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

1979 appropriations to date	$11, 500, 000
1979 supplemental estimate	541, 000
House allowance	----------
Committee recommendation	----------

The Committee has not approved the additional $541,000 requested for the salaries and expenses appropriation for fiscal year 1979. These funds were requested to develop regulations for making grants authorized by the Public Telecommunications Financing Act of 1978, and to respond to the public service satellite directive set forth in the President's National Space Policy. With respect to the first item, Department officials have indicated that development of such regulations to implement the act is well underway. With regard to the second item, the justification for or the urgency of this new program has not been demonstrated.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

The Committee has approved the appropriation language requested which will permit the National Telecommunications and Information Administration to make grants from existing appropriations in accordance with the Public Telecommunications Financing Act of 1978. The new legislation authorizes NTIA to make grants for planning of telecommunications facilities, broadcasting facilities and nonbroadcast facilities.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES OF JUDGES

1979 appropriations to date	$40, 258, 000
1979 supplemental estimate	3, 550, 000
House allowance	1, 200, 000
Committee recommendation	1, 200, 000

The bill includes $1,200,000 to provide funds for salaries of judges appointed pursuant to the Omnibus Judgeship Act—Public Law 95-486—which authorized 117 additional district judgeships and 35 additional circuit judgeships. The Committee reduced the request for this item by $2,350,000 since there have been significant delays in the appointments to the new judgeships.

SALARIES OF SUPPORTING PERSONNEL

1979 appropriations to date	$166, 195, 000
1979 supplemental estimate	5, 690, 000
House allowance	1, 800, 000
Committee recommendation	1, 800, 000

The bill provides $1,800,000 in supplemental funds for salaries of personnel to support Federal judges and the operations of district courts and courts of appeals. This amount compares with a request of $5,690,000. These additional funds are needed for supporting personnel associated with the Omnibus Judgeship Act—Public Law 95–486—and for court interpreters required by Public Law 95–539, the Court Interpreters Act.

FEES OF JURORS AND COMMISSIONERS

1979 appropriations to date	$20,750,000
1979 supplemental estimate	4,000,000
House allowance	4,000,000
Committee recommendation	4,000,000

The Committee recommends $4,000,000, the full amount of the supplemental request, for fees of jurors and commissioners. This amount is needed for increases in fees, mileage, and other allowances for jurors pursuant to the Jury System Improvements Act of 1978.

The Committee has inserted language providing for refreshments, coffee and doughnuts for jurors.

TRAVEL AND MISCELLANEOUS EXPENSES

1979 appropriations to date	$31,914,000
1979 supplemental estimate	7,229,000
House allowance	3,600,000
Committee recommendation	3,600,000

The bill includes $3,600,000 for travel and miscellaneous expenses of judges and supporting personnel associated with the Omnibus Judgeship Act—Public Law 95–483. The amount included reflects a reduction of $3,629,000 from the supplemental request, associated with a delay in the filling of judgeships.

SALARIES AND EXPENSES OF MAGISTRATES

1979 appropriations to date	$19,441,000
1979 supplemental estimate	50,000
House allowance	----------
Committee recommendation	----------

The request of $50,000 additional for salaries and expenses of magistrates has not been approved. The request was made in order to provide funds for contractual services for interpreters for magistrates pursuant to the Court Interpreters Act. It now appears that such costs can be absorbed from the existing appropriation for magistrates, so the additional funds are not required.

SPACE AND FACILITIES

1979 appropriations to date	$98,400,000
1979 supplemental estimate	2,377,000
House allowance	----------
Committee recommendation	----------

The request for $2,377,000 in supplemental funds for space and facilities for district and circuit judges has not been approved. The funds were requested to provide facilities for additional judges and staff as a result of the Omnibus Judgeship Act. Because of delays in the filling of new judgeships, the funds needed in the current fiscal year for facility requirements are reduced substantially and can be met within the existing appropriation.

FURNITURE AND FURNISHINGS

1979 appropriations to date	$8,500,000
1979 supplemental estimate	8,505,000
House allowance	4,200,000
Committee recommendation	4,200,000

The Committee recommends the appropriation of $4,200,000 for the purchase of furniture and furnishings for judges authorized by the Omnibus Judgeship Act—Public Law 95–486—and the Bankruptcy Reform Act—Public Law 95–598. The amount recommended is $4,305,000 less than the supplemental request. Delays in appointment of new judges have reduced the requirements under this appropriation for the current fiscal year. If additional funds are required as the judgeships are filled, consideration can be given to subsequent funding.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

SALARIES AND EXPENSES

1979 appropriations to date	$12,250,000
1979 supplemental estimate	338,000
House allowance	150,000
Committee recommendation	150,000

The bill includes $150,000 for administrative support associated with the Omnibus Judgeship Act—Public Law 95–486—the Bankruptcy Reform Act—Public Law 95–598—and the Court Interpreters Act—Public Law 95–539. The amount recommended is a reduction of $188,000 from the supplemental request. The addition of 152 judgeships established by the Omnibus Judgeship Act increases requirements for statistical reporting, personnel administration, financial management, procurement, and space administration. This supplemental also provides for bankruptcy reporting, maintaining panels of qualified trustees, and other general administrative services relating to the Bankruptcy Reform Act. Implementation of the Court Interpreters Act, which is also provided for in this supplemental, requires the Director of the Administrative Office of the U.S. Courts to establish a program to facilitate the use of interpreters in courts of the United States.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

1979 appropriations to date	$8,025,000
1979 supplemental estimate	300,000
House allowance	150,000
Committee recommendation	150,000

The bill provides $150,000 in supplemental funds for the Federal Judicial Center. This amount, which is $150,000 less than the request, is to provide for training requirements resulting from the Omnibus Judgeship Act—Public Law 95–486—and the Bankruptcy Reform Act—Public Law 95–598.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

1979 appropriations to date	$16,396,000
1979 supplemental estimate	1,010,000
House allowance	850,000
Committee recommendation	1,000,000

The Committee recommends $1,000,000 in supplemental funds for the Arms Control and Disarmament Agency, an increase of $150,000 over the amount in the House bill. This amount is primarily for increased costs of overseas negotiations associated with the decline in the value of the U.S. dollar and for renovation of office space. The amount recommended is $10,000 less than the budget request due to the recent improvement of the dollar overseas.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

1979 appropriations to date	$85,000,000
1979 supplemental estimate	3,000,000
House allowance	2,000,000
Committee recommendation	3,000,000

The Committee has approved the full $3,000,000 in additional funds requested to cover fluctuations in foreign currency exchange rates associated with the operations of RFE/RL, Inc. in western Europe. This is an increase of $1,000,000 over the amount allowed by the House.

A total of $5,000,000 is authorized for this purpose for fiscal year 1979, of which $2,000,000 was appropriated in the regular 1979 appropriation act. Although currency exchange rates have shown some improvement in recent months, the Committee believes that an additional $3,000,000 is necessary to fund the additional requirements of RFE/RL, Inc. for fiscal year 1979.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

[Increase in limitation]

The Committee has not approved the request to increase the limitation on payments to State and local enforcement agencies. The proposal was to increase the limitation from $15,000,000 to $18,500,000 in order to utilize excess funds currently available due to delays in filling positions authorized for the Equal Employment Opportunity Commission. The Committee agrees with the action of the House in directing these funds to meet the increased pay costs resulting from the October 1978 pay raise, for which $3,827,000 has been requested. Consequently, the request to increase the limitation has been denied as well as the request for increased pay requirements.

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

1979 appropriations to date	$368,000,000
1979 supplemental estimate	737,000
House allowance	--------
Committee recommendation	--------

The Committee has denied the request of $737,000 for increased dollar requirements of the International Communication Agency for overseas operating costs resulting from the decline in the value of the dollar. There has been some improvement in the position of the dollar since the request was formulated and the Agency can now meet such costs within the existing appropriation.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY)

1979 appropriations to date	$9,824,000
1979 supplemental estimate	454,000
House allowance	300,000
Committee recommendation	300,000

The bill includes $300,000 for increased foreign currency requirements resulting from the decline in the value of the dollar, primarily in India. There has been some improvement in the position of the dollar since the request was formulated and such requirements can now be partially met within the existing appropriation, thus the request has been reduced by $154,000.

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Earlier this year the Committee approved a reprograming notice permitting the Agency to establish a radio relay station in southern Africa. ICA hopes to enter into an agreement with the Government of Botswana calling for a rent-free lease of the relay station site. It now appears possible to secure a long-term arrangement, covering up to 25 years. Section 801(3) of the United States Information and Educational Exchange Act of 1948, as amended—Public Law 80-402—limits such leases to 10 years unless a longer period is provided in an appropriation act. Accordingly, the necessary enabling language has been inserted in the bill.

RENEGOTIATION BOARD

SALARIES AND EXPENSES

1979 appropriations to date	$5,260,000
1979 supplemental estimate	1,103,000
House allowance	--------
Committee recommendation	--------

The Committee has denied the request of $1,103,000 and language relating to the 1979 appropriation for the Renegotiation Board, since the Board terminated its activities on March 31, 1979 in accordance with Public Law 95–431.

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

SALARIES AND EXPENSES

1979 appropriations to date	-------
1979 supplemental estimate	$224,000
House allowance	224,000
Committee recommendation	224,000

The Select Commission on Immigration and Refugee Policy was created by Congress and established by section 4 of Public Law 95–412. The purpose of the Commission, described generally, is to conduct a comprehensive study of the immigration laws, policies, and procedures of the United States. The Commission is charged with reporting its findings and making such administrative and legislative recommendations ot the President and to the Congress as are appropriate.

A supplemental request of $224,000 is made for start-up expenses for the Commission during the remaining months of fiscal year 1979.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

1979 appropriations to date	$187,000,000
1979 supplemental estimate	2,000,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends the appropriation of $2,000,000, the full amount requested, for salaries and expenses associated with the disaster loan program. These funds are primarily for the employment of temporary personnel necessary for the processing and administering of disaster loans.

DISASTER LOAN FUND

1979 appropriations to date	$230,000,000
1979 supplemental estimate	1,018,000,000
House allowance	1,018,000,000
Committee recommendation	1,018,000,000

The Committee recommends the appropriation of $1,018,000,000 requested an additional capital for the Disaster Loan Fund. The initial supplemental proposal of $620,000,000 was requested to assist the victims of winter storms in the Northeast and Midwest and to provide financial assistance to victims of agricultural drought, primarily in Texas and Oklahoma. A series of major disasters in the early spring prompted the submission of an additional request of $398,000,000.

These disasters include tornadoes in Texas, Arkansas, and Oklahoma and severe flooding in Mississippi, Alabama, Louisiana, Missouri, Minnesota, and North Dakota.

INCREASED PAY COSTS

The Committee considered budget requests totaling $117,249,000 for increased pay costs for the Departments of State, Justice, and Commerce, the Judiciary and 20 related agencies for fiscal year 1979. The Committee has included a total of $88,941,000 in new budget authority in title II of the bill for these departments and agencies. This amount is a reduction of $28,308,000 from the total budget estimate. In addition, the Committee has included increases of $15,524,000 in title II to be derived by transfer from other appropriations to fund increased pay costs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER IX					
DEPARTMENT OF STATE					
ADMINISTRATION OF FOREIGN AFFAIRS					
Salaries and expenses	$13,892,000	$4,100,000	$4,100,000	−$9,792,000	
Payment to the Foreign Service retirement and disability fund	3,462,000	3,462,000	3,462,000		
Total, administration of foreign affairs	17,354,000	7,562,000	7,562,000	−9,792,000	
INTERNATIONAL ORGANIZATIONS AND CONFERENCES					
Contributions to international organizations	58,357,000	58,357,000	58,357,000		
Contributions for international peacekeeping activities	40,000,000	40,000,000	40,000,000		
Missions to international organizations	961,000	750,000	750,000	−211,000	
Total, international organizations and conferences	99,318,000	99,107,000	99,107,000	−211,000	
INTERNATIONAL COMMISSIONS					
International fisheries commissions	30,000			−30,000	
Total, Department of State	116,702,000	106,669,000	106,669,000	−10,033,000	
DEPARTMENT OF JUSTICE					
GENERAL ADMINISTRATION					
Salaries and expenses			250,000	+250,000	+$250,000
By transfer	(490,000)			(−490,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER IX—Continued					
DEPARTMENT OF JUSTICE—Continued					
LEGAL ACTIVITIES					
Salaries and expenses, general legal activities			$974,000	+$974,000	+$974,000
By transfer	($974,000)			(−974,000)	
Salaries and expenses, U.S. attorneys and marshals	226,000			−226,000	
By transfer		($185,000)	(185,000)	(+185,000)	
Fees and expenses of witnesses	6,464,000	6,464,000	6,464,000		
Total, legal activities	6,690,000	6,464,000	7,438,000	+748,000	+974,000
FEDERAL BUREAU OF INVESTIGATION					
Salaries and expenses			2,886,000	+2,886,000	+2,886,000
By transfer	(2,886,000)			(−2,886,000)	
IMMIGRATION AND NATURALIZATION SERVICE					
Salaries and expenses	200,000		3,935,000	+3,735,000	+3,935,000
By transfer	(3,935,000)			(−3,935,000)	
Total, Department of Justice	6,890,000	6,464,000	14,259,000	+7,369,000	+7,795,000

DEPARTMENT OF COMMERCE					
GENERAL ADMINISTRATION					
Participation in U.S. expositions	200,000			−200,000	
ECONOMIC DEVELOPMENT ADMINISTRATION					
Economic development assistance program:					
Increase in limitation	(96,000,000)	(96,000,000)	(96,000,000)		
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION					
Construction	52,000,000		60,000,000	+8,000,000	+60,000,000
Coastal zone management	7,000,000	6,500,000	6,500,000	−500,000	
Fishing vessel and gear damage compensation fund	3,500,000	500,000	2,000,000	−1,500,000	+1,500,000
Fishermen's contingency fund	600,000	300,000	600,000		+300,000
Total, National Oceanic and Atmospheric Administration	63,100,000	7,300,000	69,100,000	+6,000,000	+61,800,000
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION					
Salaries and expenses	541,000			−541,000	
Total, Department of Commerce	63,841,000	7,300,000	69,100,000	+5,259,000	+61,800,000
THE JUDICIARY					
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES					
Salaries of judges	3,550,000	1,200,000	1,200,000	−2,350,000	
Salaries of supporting personnel	5,690,000	1,800,000	1,800,000	−3,890,000	
Fees of jurors and commissioners	4,000,000	4,000,000	4,000,000		
Travel and miscellaneous expenses	7,229,000	3,600,000	3,600,000	−3,629,000	
Salaries and expenses of magistrates	50,000			−50,000	
Space and facilities	2,377,000			−2,377,000	
Furniture and furnishings	8,505,000	4,200,000	4,200,000	−4,305,000	
Total, courts of appeals, district courts, and other judicial services	31,401,000	14,800,000	14,800,000	−16,601,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER IX—Continued					
THE JUDICIARY—Continued					
ADMINISTRATIVE OFFICE OF THE U.S. COURTS					
Salaries and expenses	$338,000	$150,000	$150,000	−$188,000	
FEDERAL JUDICIAL CENTER					
Salaries and expenses	300,000	150,000	150,000	−150,000	
Total, The Judiciary	32,089,000	15,100,000	15,100,000	−16,989,000	
RELATED AGENCIES					
ARMS CONTROL AND DISARMAMENT AGENCY					
Arms control and disarmament activities	1,010,000	850,000	1,000,000	−10,000	+$150,000
BOARD FOR INTERNATIONAL BROADCASTING					
Grants and expenses	3,000,000	2,000,000	3,000,000		+1,000,000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION					
Salaries and expenses (increase in limitation)	(3,500,000)			(−3,500,000)	
INTERNATIONAL COMMUNICATION AGENCY					
Salaries and expenses	737,000			−737,000	
Salaries and expenses (special foreign currency program)	454,000	300,000	300,000	−154,000	
Total, International Communication Agency	1,191,000	300,000	300,000	−891,000	
RENEGOTIATION BOARD					
Salaries and expenses	1,103,000			−1,103,000	
SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY					
Salaries and expenses	224,000	224,000	224,000		
SMALL BUSINESS ADMINISTRATION					
Salaries and expenses	2,000,000	2,000,000	2,000,000		
Disaster loan fund	1,018,000,000	1,018,000,000	1,018,000,000		
Total, Small Business Administration	1,020,000,000	1,020,000,000	1,020,000,000		
Total, related agencies	1,026,528,000	1,023,374,000	1,024,524,000	−2,004,000	+1,150,000
Total, chapter IX:					
New budget (obligational) authority	1,246,000,000	1,156,907,000	1,229,652,000	−16,348,000	+70,745,000
Limitation	(99,500,000)	(96,000,000)	(50,000,000)	(−49,500,000)	(−46,000,000)
By transfer	(8,035,000)	(185,000)	(185,000)	(−7,850,000)	

CHAPTER X

Department of Transportation and Related Agencies

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

1979 appropriations to date	$11,450,000
1979 supplemental request	5,000,000
House allowance	----------
Committee recommendation	5,000,000

The Committee recommends restoration of the budget request of $5,000,000 to conduct a study of inland waterway user taxes and charges which was authorized and requested by section 205 of the Inland Waterways Revenue Act of 1978.

Under this provision, the Secretaries of Transportation and Commerce are required jointly to conduct a study of the impact of user fees on inland waterways and to report their findings to Congress by September 1981. In testimony before the Transportation Subcommittee, the Secretary of Transportation stated that unless these funds are appropriated, the Department will not be able to develop the kind of information that will be necessary to meet the congressionally mandated deadline. The Committee expects the Department of Commerce to be an active participant in the waterway user fee study, especially as it has the data available to address the economic impacts enumerated in section 205 of Public Law 95–502.

Coast Guard

POLLUTION FUND

1979 appropriations to date	----------
1979 supplemental request	$23,000,000
House allowance	(1)
Committee recommendation	13,000,000

[1] Budget request contained in H. Doc. 96–130 and not considered by House.

The Committee recommends an appropriation of $13,000,000 of the amount requested in House Document 96–130 to replenish the pollution fund. That amount, plus the current balance of $2,700,000, will enable the Coast Guard to carry out its cleanup responsibilities in the event of major spills between now and fiscal year 1980.

RETIRED PAY

1979 appropriations to date	$173,500,000
1979 supplemental request	4,000,000
House allowance	4,000,000
Committee recommendation	4,000,000

The Committee recommends concurrence with the House allowance of the full budget request of $4,000,000 for payments to retired Coast Guard personnel. This increase in retirement payments is necessary

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due to upward adjustments in economic indicators upon which such payments are based.

OFFSHORE OIL POLLUTION COMPENSATION FUND

	Appropriation	Authority to borrow
1979 appropriations to date	----------	----------
1979 supplemental request	$5,000,000	$3,000,000
House allowance	5,000,000	3,000,000
Committee recommendation	5,000,000	3,000,000

The Committee is in agreement with the language contained in the House bill which enables the Coast Guard to use such funds as may be necessary from the Offshore Oil Pollution Compensation Fund for the cleanup of oil spills on the Outer Continental Shelf, as well as to pay compensation for damages caused by such spills where appropriate.

The bill also contains provisions which would provide for the collection of a fee, not to exceed 3 cents per barrel, on oil obtained from the Outer Continental Shelf as authorized by title III of Public Law 95-372 and limits fiscal year 1979 obligations to a maximum of $60,000,000.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

1979 appropriations to date	$282,297,000
1979 supplemental request	13,563,000
House allowance	10,850,000
Committee recommendation	----------

The Committee recommends that no resources be provided for use in connection with the FAA's proposal to expand positive control of aircraft in certain terminal areas at this time. In testimony before the subcommittee, the FAA Administrator stated that in excess of 40,000 comments have been received on the proposed rule, a large majority of which were in opposition to the proposal. The Committee has received similar expressions of concern from the aviation community, as well as the Department of Defense and the National Transportation Safety Board. The concluding paragraph of a letter from NTSB Chairman James King to the FAA, dated March 2, 1979, reads as follows:

> In summary, because this NPRM lacks specificity with regard to many operational details, some of which have been cited herein, and in view of its potential impact on the safety and efficiency of the air traffic control system, we recommend that you issue a second NPRM incorporating the results of your analysis of the comments received on this proposed rulemaking.

In testimony before the subcommittee, when asked whether FAA might follow NTSB's advice and issue a second NPRM, Administrator Bond responded that such an action is "a very distinct possibility". The Committee has therefore determined that it would be inappropriate to provide the funds requested to implement NPRM 78-19. If and when a proposal to expand positive control of aircraft becomes final, the Committee will consider an FAA request to temporarily reprogram previously appropriated facilities and equipment funds in order to implement such a program. Restoration of any such reprogramed funds can then be considered in subsequent appropriations bills.

RESEARCH AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

1979 appropriations to date	----------
1979 supplemental request	**$3,500,000**
House allowance	----------
Committee recommendation	**3,500,000**

The Committee recommends restoration of the $3,500,000 requested for FAA's "Research, engineering and development" appropriation. This appropriation will enable FAA to accelerate the development of collision avoidance systems without reprograming funds previously appropriated for other important programs, as the House action would require.

LOAN GUARANTEE PROGRAM

The Committee agrees with the bill language limiting to $100,000,000 the extent to which the Secretary of Transportation may provide guarantees by the Federal Government of private aircraft loans. In addition, the bill does not contain the proposed language which would restrict such loan guarantees to commuter air carriers. While the Committee understands the need to place reasonable limits upon such programs throughout Government, the Committee, nevertheless, believes that the $100,000,000 limit is necessary for the initiation of this program, rather than the $50,000,000 limit requested by the Department. This level of loan guarantees for fiscal year 1979, should assure improved air service to local communities as contemplated by the Airline Deregulation Act of 1978 (Public Law 95–504).

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY

This Committee recommends in South Carolina U.S. Route 276, the Golden Strip Freeway from Interstate Route 85 to a point south of Mauldin, in Greenville County for consideration for funding with discretionary priority primary funds under Section 104(c) of the Surface Transportation Assistance Act of 1978.

OFF-SYSTEM ROADS (APPROPRIATION TO LIQUIDATE CONTRACT AUTHORIZATION)

1979 appropriations to date	**(----------)**
1979 supplemental request	**($18,500,000)**
House allowance	**(18,500,000)**
Committee recommendation	**(18,500,000)**

The Committee recommends concurrence with the House allowance of the full request of $18,500,000 in liquidating cash to cover obligations incurred for projects authorized by the Federal-Aid Highway Amendments of 1974. This program provides for the construction, reconstruction, and improvement of public roads and bridges not previously eligible for Federal aid.

BY-PASS HIGHWAY DEMONSTRATION PROJECT

The Committee agrees with the general provision contained in the House bill which would prohibit the use of funds authorized by section 152 of the Surface Transportation Assistance Act for the construction of a by-pass highway along the Redwoods National Forest in California. In requesting this provision, the Department of Transportation noted that this highway is on the Federal-aid primary system and should be funded from the regular Federal-aid funds available for such highways.

FEDERAL RAILROAD ADMINISTRATION

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

1979 appropriations to date	$455,000,000
1979 supplemental request	35,000,000
House allowance	35,000,000
Committee recommendation	35,000,000

The Committee recommends concurrence with the House allowance of the full budget request of $35,000,000 to eliminate additional public grade crossings along the Northeast Corridor. Elimination of such hazardous crossings will result in safer auto and rail passenger travel in the corridor, as well as enhance DOT's ability to achieve the trip time goals for rail passenger service in the corridor established under the provisions of the Rail Revitalization and Regulatory Reform Act of 1976.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

1979 appropriations to date	$660,000,000
1979 supplemental request	119,000,000
House allowance	119,000,000
Committee recommendation	119,000,000

The Committee agrees with the House allowance of the full budget request of $119,000,000 for Amtrak. Of this amount, $90,000,000 is necessary to fund Amtrak's operating deficits for the operation of the present system through September 30, 1979, as required by the Amtrak Improvement Act of 1978. The remaining $29,000,000 of this appropriation will be used for the procurement of 11 additional AEM-7 locomotives for use in the Northeast Corridor. The procurement of these lightweight electric locomotives is a vital part of the Northeast Corridor improvement program.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN DISCRETIONARY GRANTS

The Committee agrees with the House report language limiting the amount of urban discretionary grant funds that may be used for the urban initiatives program in fiscal year 1979 to $60,000,000. This amounts to a reduction of $140,000,000 from the level of such grants which the Department would otherwise approve. The Committee received testimony from numerous representatives of the transit community, as well as Members of Congress and public officials, regarding the need for adequate funds for projects normally provided through the urban discretionary grant program. The urban initiatives program, which is intended to encourage the coordination of transit projects with economic development in urban areas, is a worthwhile effort. But, the Committee does not agree that such new projects should be given a higher priority than the traditional capital grants made under the discretionary grant program.

The following table provides comparisons relative to the previous actions taken by Congress and the Department concerning the amount of funding that should be made available for each category listed. As shown in the last column, the Committee hereby directs the Department to fund such categories in the following amounts: Bus and related, $210,000,000; rail modernizations, extensions, and rolling stock, $700,000,000; new starts, $255,000,000; and urban initiatives—$60,000,000. In New Starts program the Committee intends that the highest consideration be given by UMTA to those projects which are ready to proceed and have the best opportunity to obligate the additional funds during the balance of the fiscal year. Regarding the urban initiatives program, the Committee intends that the most worthwhile projects be funded from the funds available.

[In millions of dollars]

	As appropriated	As programed with urban initiatives	DOT reprogram	House action	DOT reclamation	Senate recommendation
Bus and related	$200	$150	$205	$200	$200	$210
Rail modernization, extensions, and rolling stock	770	640	585	640	690	700
New starts, DPM	255	235	235	285	235	255
Urban initiatives	0	200	200	60	100	60
Subtotal	1,225	1,225	1,225	1,185	1,225	1,225
Sec. 5 (tier II)				40		
Planning	25	25	25	25	25	25
Total	1,250	1,250	1,250	1,250	1,250	1,250

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

1979 appropriations to date	
1979 supplemental request	
House allowance	$5,000,000
Committee recommendation	

The Committee recommends deletion of the $5,000,000 appropriation contained in the House bill for a waterborne transportation demonstration project authorized by the Surface Transportation Assistance Act of 1978. The Committee agrees with the Department of Transportation that funding of this project should be deferred pending further study which will delineate the parameters of a suitable project and develop firm funding estimates.

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

1979 appropriations to date	$68,900,000
1979 supplemental estimate	4,000,000
House allowance	4,000,000
Committee recommendation	4,000,000

The Committee concurs with the supplemental budget estimate of $4,000,000 for subsidy payments to eligible air carriers. This appropriation provides for the newly authorized section 419 payments under the Airline Deregulation Act of 1978, which requires the Board to guarantee a minimal level of service to qualifying communities. It is expected that twelve such communities will require assistance in fiscal year 1979.

THE PANAMA CANAL

CANAL ZONE GOVERNMENT

OPERATING EXPENSES

1979 appropriations to date	$74,000,000
1979 supplemental estimate	4,934,000
House allowance	4,934,000
Committee recommendation	4,934,000

The full supplemental budget estimate is recommended. Of this amount, $3 231,000 is related to increased costs for commuted leave and abnormal repatriation costs occasioned by the Panama Canal Treaty of 1977. An amount totaling $1,703,000 is requested for cemetery relocations of U.S. citizens and their dependents interred in the Canal Zone. This expense is the result of the resolution of ratification of the Treaty concerning the permanent neutrality and operation of the Panama Canal.

PANAMA CANAL COMPANY

LIMITATION ON GENERAL AND ADMINISTRATIVE EXPENSES

1979 appropriations to date	($27,580,000)
1979 supplemental estimate	(1,837,000)
House allowance	(1,837,000)
Committee recommendation	(1,837,000)

This increase in the limitation on general and administrative expenses will allow the Company to meet repatriation expenses related to the treaty. In addition, it will cover recruitment costs related to greater than anticipated turnover among canal pilots and other skilled employees.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

1979 appropriations to date	$23,000,000
1979 supplemental estimate	4,200,000
House allowance	4,200,000
Committee recommendation	4,200,000

The Committee recommends approval of the $4,200,000 supplemental request. $2,288,000 is required to meet additional litigation expenses as the result of a decision of the special court on June 23, 1978. $743,000 is required for additional monitoring costs of ConRail's plant size and configuration, market structure and the productivity of equipment and the work force. The remaining $1,169,000 is needed for the analysis of alternatives to ConRail.

PAYMENTS FOR THE PURCHASE OF CONRAIL SECURITIES

1979 appropriations to date	$300,000,000
1979 supplemental estimate	239,000,000
House allowance	239,000,000
Committee recommendation	239,000,000

The Committee recommends concurrence with the House provision of $239,000,000 for ConRail operating losses and its rehabilitation and improvements program for the remainder of fiscal year 1979. The Committee has deferred consideration of the remaining $734,000,000 requested for the purchase of ConRail securities.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

		by transfer
1979 appropriations to date	$38,142,000	----------
1979 supplemental estimate	16,102,000	----------
House allowance	16,102,000	$7,099,000
Committee recommendation	23,201,000	----------

The Committee recommends the appropriation of $23,201,000 for interest payments on WMATA construction bonds due July 1, 1979. The amount provided is the same total amount made available by the House. However, the Committee does not agree to the transfer of over $7,000,000 from the capital funds available to WMATA for subway construction. The Committee feels that the use of capital funds for bonded indebtedness represents an alarming presedent and would require WMATA to renegotiate its contracts with the various local governments in the system.

The amount provided represents 80 percent of the total required; the remaining 20 percent will be made up of non-Federal payments from the local jurisdictions. In future years these non-Federal payments will be increased so that the total Federal payment for interest will not exceed two-thirds over the life of the bonds.

NATIONAL ALCOHOL FUELS COMMISSION

SALARIES AND EXPENSES

1979 Appropriations to date	----------
1979 Supplemental request	----------
House allowance	----------
Committee recommendation	$1,500,000

The Committee recommends $1,500,000 for the National Alcohol Fuels Commission. The Commission will undertake a full and complete investigation of the long and short range potential of alcohol fuels from various sources including biomass, solid waste and coal, to meet the nations energy needs.

The Commission will recommended polices and associated costs and benefits to reduce the reliance on foreign oil, insure adequate energy supplies and contribute to the economic health of the nation.

INCREASED PAY COSTS

Title II of the bill includes $85,752,000 in new budget authority, $5,027,000 in increased limitations and $5,249,231 in transfers for pay cost increases for agencies under the jurisdiction of the subcommittee. This compares to requests of $95,350,000 in new budget authority, $5,597,000 in limitation increases and $63,331 in transfers for a reduction of $9,598,000, $570,000 and an increase of $5,186,000, respectively.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER X					
DEPARTMENT OF TRANSPORTATION					
OFFICE OF THE SECRETARY					
Transportation planning, research, and development	$5,000,000		$5,000,000		+$5,000,000
COAST GUARD					
Pollution fund	23,000,000		13,000,000	−$10,000,000	+13,000,000
Retired pay	4,000,000	$4,000,000	4,000,000		
Offshore oil pollution compensation fund:					
Appropriation	5,000,000	5,000,000	5,000,000		
Authority to borrow	3,000,000	3,000,000	3,000,000		
Total, Coast Guard	35,000,000	12,000,000	25,000,000	−10,000,000	+13,000,000
FEDERAL AVIATION ADMINISTRATION					
Facilities and equipment (airport and airway trust fund)	13,563,000	10,850,000		−13,563,000	−10,850,000
Research, engineering and development (airport and airway trust fund)	3,500,000		3,500,000		+3,500,000
Total, Federal Aviation Administration	17,063,000	10,850,000	3,500,000	−13,563,000	−7,350,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER X—Continued					
DEPARTMENT OF TRANSPORTATION—Continued					
FEDERAL HIGHWAY ADMINISTRATION					
Off-system roads (appropriation to liquidate contract authorization)	($18,500,000)	($18,500,000)	($18,500,000)		
FEDERAL RAILROAD ADMINISTRATION					
Northeast Corridor improvement program	35,000,000	35,000,000	35,000,000		
Grants to the National Railroad Passenger Corporation	119,000,000	119,000,000	119,000,000		
Total, Federal Railroad Administration	154,000,000	154,000,000	154,000,000		
URBAN MASS TRANSPORTATION ADMINISTRATION					
Urban formula grants (by transfer)		(40,000,000)			(−$40,000,000)
Waterborne transportation demonstration project		5,000,000			−5,000,000
RELATED AGENCIES					
CIVIL AERONAUTICS BOARD					
Payments to air carriers	4,000,000	4,000,000	4,000,000		

THE PANAMA CANAL					
Canal Zone Government: Operating expenses	4,934,000	4,934,000	4,934,000		
Panama Canal Company: Limitation on general and administrative expenses	(1,837,000)	(1,837,000)	(1,837,000)		
UNITED STATES RAILWAY ASSOCIATION					
Administrative expenses	4,200,000	4,200,000	4,200,000		
Payments for purchase of Conrail securities	239,000,000	239,000,000	239,000,000		
Total, United States Railway Association	243,200,000	243,200,000	243,200,000		
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY					
Interest payments	16,102,000	16,102,000	23,201,000	+$7,099,000	+7,099,000
By transfer		(7,099,000)			(−7,099,000)
NATIONAL ALCOHOL FUELS COMMISSION					
Salaries and expenses			1,500,000	+1,500,000	+1,500,000
GENERAL PROVISIONS					
Coast Guard: Offshore oil pollution compensation fund: Limitation on obligations	(60,000,000)	(60,000,000)	(60,000,000)		
Federal Aviation Administration: Loan guarantee program (limitation on loan guarantees)	(50,000,000)	(100,000,000)	(100,000,000)	(+50,000,000)	
Total, general provisions	(110,000,000)	(160,000,000)	(160,000,000)	(+50,000,000)	
Total, chapter X:					
New budget (obligational) authority	479,299,000	450,086,000	464,335,000	−14,964,000	+14,249,000
Appropriations	(476,299,000)	(447,086,000)	(461,335,000)	(−14,964,000)	(+14,249,000)
Authority to borrow	(3,000,000)	(3,000,000)	(3,000,000)		
Appropriation to liquidate contract authorization	(18,500,000)	(18,500,000)	(18,500,000)		
By transfer		(47,099,000)			(−47,099,000)
Limitation	(1,837,000)	(1,837,000)	(1,837,000)		

CHAPTER XI

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS

SALARIES AND EXPENSES

1979 appropriations to date	--------
1979 supplemental estimate	$5,442,000
House allowance	--------
Committee recommendation	--------

The Committee denies, without prejudice, the entire amount of the supplemental request and directs the Office to continue funding these operations through the Exchange Stabilization Fund for the remainder of fiscal year 1979. The Committee also directs the office to limit its expenditures in the fourth quarter of fiscal year 1979 to $5,442,000, of which no more than $20,000, or 25 percent of the annual rate proposed for fiscal year 1980, shall be spent for entertainment expenses.

Public Law 95-612 removed the authority from the Secretary of Treasury to use the Exchange Stabilization Fund for administrative expenses of the international activities of the Department. These expenses, formerly funded through that mechanism, must be funded through an appropriation. This supplemental request would commence funding these international activities at some point during the last quarter of fiscal year 1979.

The Committee strongly supports the concept of funding the International Affairs Office through the annual appropriations process, but agrees with the Department that it would be administratively less complicated to commence the process at the beginning of fiscal year 1980.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

1979 appropriations to date	$717,000,000
1979 supplemental estimate	9,017,000
House allowance	9,017,000
Committee recommendation	9,017,000

The Committee recommends an appropriation of $9,017,000, the full amount of the supplemental budget request. The supplemental request is solely to pay for the general increase in postal rates effective on May 29, 1978. No positions are funded by this appropriation

PAYMENTS TO THE GOVERNMENT OF GUAM

1979 appropriations to date	--------
1979 supplemental estimate	$216,000
House allowance	216,000
Committee recommendation	216,000

The Committee recommends an appropriation of $216,000, the full amount of the supplemental budget request.

The Tax Reduction and Simplification Act of 1977 authorizes the Secretary of the Treasury to make payments to territorial governments for tax losses incurred in 1977 as a result of certain sections of the act. The amount is determined by the Secretary of the Treasury upon certification to the Secretary by the U.S. Government Comptrollers for Guam and the Virgin Islands. The act also authorizes appropriations to carry out the provisions of this section.

This supplemental will provide additional payments to the territorial Government of Guam for tax losses incurred in 1977 as a result of the Tax Reduction and Simplification Act of 1977.

No positions are funded by the appropriation.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

1979 appropriations to date	$181,322,000
1979 supplemental estimate	1,700,000
House allowance	400,000
Committee recommendation	400,000

The Committee recommends an appropriation of $400,000, a reduction of $1,300,000 below the supplemental request. The Bureau's request was based on the assumption of a full 6 months' funding for the program. The funding recommended by the Committee adjusts for the fact that this assumption is no longer correct. All positions and equipment requested for this program have been approved.

This supplemental will provide funds to aid States in combatting interstate cigarette smuggling. The nature of the crime is such that individual States have difficulty handling these problems effectively. The Committee directs the Bureau to concentrate its efforts in States where the smuggling problem is greatest. The Bureau is to report to the Committee on the activities undertaken pursuant to this appropriation and the results achieved.

U.S. CUSTOMS SERVICE

1979 appropriations to date	$480,600,000
1979 supplemental estimate	2,848,000
House allowance	----------
Committee recommendation	----------

The Committee denied in its entirety the $2,848,000 supplemental budget request.

On August 18, 1978, Public Law 95–348 was signed by the President, an Act "To authorize appropriations for certain insular areas of the United States, and for other purposes", eliminating the requirement that the Virgin Islands reimburse Customs Service for the costs of enforcing the customs laws of the Virgin Islands. Specifically, section 4(c)(3) amends section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642) to delete the phrase "less the cost of collecting all of said duties, taxes, and fees." This had the effect of reversing the long-standing practice in effect since 1917 whereby the

Virgin Islands reimbursed the U.S. Customs Service for services provided to it. This proposed supplemental appropriation would have provided funds for the Service to assume the costs of enforcing the customs laws of the U.S. Virgin Islands as provided in Public Law 95–348.

On May 7, 1979, the House passed H.R. 3756, which would reinstate the provision of law which provides for the Virgin Islands to reimburse the Customs Service for the services rendered. In view of this fact, the Committee has included language to have the same effect to permit the Customs Service to be reimbursed by the Virgin Islands for services provided. For this reason, the Committee has denied the request.

INCREASED PAY COSTS

The Committee notes that the Office of Management and Budget did not allow the U.S. Customs Service to request the total amount of the mandatory pay increase effective in October 1978 by directing that funds appropriated for purchase of an aircraft be reprogramed and used for pay costs. The Congress denied the reprograming request and directed that the aircraft be purchased. This had the effect of reducing by $4,050,000, the funds proposed for use for the pay raise.

The Department requested an additional reprograming of $2,626,000 of fiscal year 1979 funds to pay a portion of the costs of the new John F. Kennedy International Mail Facility and the Congress also denied this reprograming request. The Committee, therefore, directs that the $2,626,000 of funds previously requested for reprograming within the appropriation "Salaries and expenses, U.S. Customs Service", be used to offset the costs of the 1979 pay raise.

The Committee has recommended an appropriation of $10,833,000 in title II of the bill. This is an increase of $1,424,000 above the budget request or the net effect of an increase of $4,050,000 offset by the $2,626,000 decrease, as discussed above.

BUREAU OF THE MINT

SALARIES AND EXPENSES

1979 appropriations to date	$43,000,000
1979 supplemental estimate	1,600,000
House allowance	1,531,000
Committee recommendation	----------

The Subcommittee considered a request of $2,381,000 for the Bureau of the Mint for the Susan B. Anthony dollar coin. On May 3, 1979, the Committee approved a reprograming request which provided the necessary funds to produce and promote the new Susan B. Anthony dollar coin. The House Appropriations Committee also approved the request on May 7, 1979. There are no additional funding requirements for this program at the current time.

The Committee does allow, however, the 32 additional positions requested, increasing the authorized level in fiscal year 1979 to 1,754 positions.

The Committee is concerned that the Bureau of the Mint is producing an excessive amount of Susan B. Anthony dollar coins. The

Mint proposes to produce a total of 600,000,000 coins in fiscal year 1979 compared with the demand from the Federal Reserve Board of 416,000,000 coins. As the Federal Reserve Board's estimate of its need for the coin includes an estimate for inventory within the banking system, it appears unnecessary for the Mint also to produce additional coins for a reserve. Additionally, the Bureau's current plans to produce 1.2 billion Susan B. Anthony coins in fiscal year 1979 and fiscal year 1980 appears excessive when compared with the 607,000,000 Eisenhower coins produced in the 7-year history of that coin program.

GOLD MEDALLIONS

On the afternoon of Friday, June 8, 1979, the Committee received an amended supplemental request which eliminated the funding request of $2,381,000 for the Susan B. Anthony dollar coin. The Committee was informed of the continuing need for the 32 positions previously requested for this purpose. While withdrawing the funding request for the Susan B. Anthony coin, the administration requested $1,600,000 to begin production of gold medallions as provided for in the American Gold Medallion Act of 1978. Because of the lateness of receipt of this amended request, time was not available to consider it and the full amount has therefore been denied without prejudice. The request for gold medallions will be considered at a later time along with the funding proposals for fiscal year 1980.

Internal Revenue Service

SALARIES AND EXPENSES

1979 appropriations to date	$135,000,000
1979 supplemental estimate	1,492,000
House allowance	1,362,000
Committee recommendation	1,362,000

The Committee recommends an appropriation of $1,362,000, a reduction of $130,000 below the supplemental request.

This supplemental provides funds for additional personnel in the IRS headquarters operation to insure that the development of new regulations and issuance of interpretative tax rulings, related to the Revenue Act of 1978, the Energy Act of 1978, and other recently enacted legislation, are effectively and efficiently administered.

The Committee allows the 50 additional positions requested.

TAXPAYERS SERVICE AND RETURNS PROCESSING

1979 appropriations to date	$604,500,000
1979 supplemental estimate	35,445,000
House allowance	27,555,000
Committee recommendation	27,555,000

The Committee recommends an appropriation of $27,555,000, a reduction of $7,890,000 below the supplemental request. The Committee also allows the seven additional positions requested.

This supplemental is primarily to fund additional IRS personnel to be available to provide taxpayers with assistance in interpreting the changes in the tax laws and tax forms. This supplemental would also provide for the processing of additional tax returns and schedules which are expected to be filed as a result of new tax laws, primarily the Revenue Act of 1978, and the Energy Act of 1978. Increased funding is also requested for increased printing costs and postage rate increases.

The Committee directs that the entire $1,300,000 included in the base for the volunteer income tax assistance (VITA) program be expended to provide training and technical assistance for volunteers providing tax assistance with emphasis on the elderly, the blind, and Spanish speaking.

EXAMINATIONS AND APPEALS

1979 appropriations to date	$758,000,000
1979 supplemental estimate	1,721,000
House allowance	----------
Committee recommendation	----------

The Committee recommends that this appropriation request of $1,721,000 be denied in its entirety.

This request provides for the additional examinations and appeals workload resulting from the Revenue Act of 1978, and the Tax Treatment Extension and Foreign Earned Income Act. It also provides for increased printing costs and postage rate increases.

The Committee notes that this account already has $758,000,000 appropriated to it and believes that this is an adequate amount to accommodate the increased workload.

The Committee denies the requested increase of 67 positions.

INVESTIGATIONS AND COLLECTIONS

1979 appropriations to date	$458,700,000
1979 supplemental estimate	859,000
House allowance	----------
Committee recommendation	----------

The Committee recommends that the appropriation request of $859,000 be denied in its entirety.

This supplemental request provides for personnel to collect the accounts receivable related to the advance payment of the earned income credit, process tax delinquency notices, and prepare a delinquency investigation program on the tax shelter provisions related to the Revenue Act of 1978. It also provides for increased printing costs and postage rate increases.

The Committee notes that this account already has $458,700,000 appropriated to it and believes that this is an adequate amount to accomplish the projected increase in workload.

The Committee denies the requested increase of eight positions.

PAYMENT WHERE ENERGY CREDIT EXCEEDS LIABILITY FOR TAX

1979 appropriations to date	----------
1979 supplemental estimate	$700,000
House allowance	700,000
Committee recommendation	700,000

The Committee recommends an appropriation of $700,000, the full amount of the supplemental request.

The Energy Tax Act of 1978 establishes a refundable business energy tax credit for solar and wind property, retroactive to October 1, 1978. Supplemental funding is requested to pay that portion of this credit which exceeds the amount of tax liability owed.

No positions are funded by this appropriation.

U.S. SECRET SERVICE

SALARIES AND EXPENSES

1979 appropriations to date	$134,800,000
1979 supplemental estimate	700,000
House allowance	----------
Committee recommendation	----------

The Committee denied, without prejudice, the supplemental request of $700,000 and understands that an additional supplemental request for travel will be forthcoming shortly. The Committee will consider the total requirements at that time.

The Committee also does not concur in the view that travel is an uncontrollable activity and feels that the Secret Service should more aggressively move to adjust its activities to match the level of resources available.

U.S. POSTAL SERVICE

1979 appropriations to date	$1,785,176,000
1979 supplemental estimate	18,233,000
House allowance	18,233,000
Committee recommendation	----------

The Postal Service has requested $18,233,000 to offset the loss in regular rate revenues as a result of recently enacted legislation which permits bulk third-class matter mailed by a "qualified political committee" to be mailed at the special bulk third-class rates for qualified nonprofit organizations, authorized by Public Law 95-593 dated November 4, 1978. This request is denied.

The Committee does not agree with the concept of reduced rate mailing for political committees. The Committee also notes language included in section 3627 of subchapter II of chapter 36 of Public Law 91-375, the Postal Reorganization Act, which states in part that: "If Congress fails to appropriate an amount authorized * * * that class may be adjusted * * * so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate." The Committee recommends that the Postal Service adjust its rates accordingly and has been informed by the Postal Service that if the appropriation is denied the rate adjustment is essentially an automatic process. The Committee also recommends that the Postal Service estimate the amount of revenues expended to subsidize this category of mail from the date of enactment of Public Law 95-593 until the date of enactment of this law and submit a supplemental request for that amount of revenue in fiscal year 1980.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

The Committee denies the appropriation language change which would have increased the travel limitation by $10,000.

The requested increase in the limitation was to provide funds for increased travel to assist in the selection of equipment to upgrade the automatic data processing capability of the Office. The Committee also has a number of unanswered questions regarding the specific nature of the Office of Administration's proposal to purchase additional automatic data processing equipment that will be addressed during consideration of the fiscal year 1980 budget proposal.

SPECIAL ASSISTANCE TO THE PRESIDENT

The administration has requested a change in the appropriation language which would increase the travel limitation for the Vice President and his staff by $10,000 in 1979. There is no increase requested in obligational authority. The Committee has approved the request in full.

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

1979 appropriations to date	$1, 753, 000
1979 supplemental estimate	5, 199, 000
House allowance	3, 199, 000
Committee recommendation	3, 199, 000

The Committee recommends an appropriation of $3,199,000, a reduction of $2,000,000 below the supplemental request of $5,199,000.

The Committee approves the requested increase in the level of authorized positions in fiscal year 1979 to 233 positions.

The Council has undergone significant expansion by the use of detailees from other agencies and by transfers from the President's Unanticipated Needs account. The total amount of funding made available to the Council in fiscal year 1979 by these means is $2,019,000. Providing these funds to the Council through an appropriation would permit the Council to reimburse the President's Unanticipated Needs account and the various agencies which have contributed staff and funds to the Council. However, because of the lateness of the fiscal year, these reimbursements would unlikely be available in time for actual expenditure in fiscal year 1979 and therefore their appropriation is of questionable merit.

The Committee has also agreed with the House and inserted language in the bill prohibiting the Council from enlisting voluntary and unofficial participation from the public to help monitor the Council's anti-inflationary programs.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATION ON AVAILABILITY OF REVENUE

CONSTRUCTION OF BUILDINGS

1979 limitation to date	($113,978,000)
1979 supplemental estimate	(4,436,205)
House allowance	(36,205)
Committee recommendation	(36,205)

RENTAL OF SPACE

1979 limitation to date	(506,137,000)
1979 supplemental estimate	(14,000,000)
House allowance	(14,000,000)
Committee recommendation	(14,000,000)

REAL PROPERTY OPERATIONS

1979 limitation to date	(472,874,000)
1979 supplemental estimate	(−7,000,000)
House allowance	(−7,000,000)
Committee recommendation	(−7,000,000)

The Committee recommends that the limitations on space rental be increased by $14,000,000 and the limitation on construction be increased by $36,205.

This limitation increase of $14,000,000 is to finance additional costs for rental of space to provide for the requirements of the various Federal agencies. It will also provide for the 1979 cost for annual tax and/or operating escalators, which are included in every new lease entered into by the General Services Administration, effective April 28, 1978. Of the $14,000,000 increase, $7,000,000 is to be derived by transfer from real property operations and $7,000,000 by an overall increase in the Federal Buildings Fund.

Based on testimony given to the Committee by the Acting Administrator, the General Services Administration has already proceeded to obligate the additional funds requested for leased space within the Federal Building Fund. This action was taken without any approval by the Congress and without any written request to the Congress. The Committee is greatly concerned that the GSA would take such an action. Informal communications by GSA officials and Committee staff, either in the House or in the Senate, cannot constitute congressional approval of an action contrary to the direction provided by a law passed by the Congress. The Committee, therefore, directs the GSA to make formal written requests of any and all actions in the future which would contradict or be inconsistent with laws passed by the Congress and not proceed with these actions until formal congressional approval is granted.

The additional authorization request of $4,436,205 for construction in fiscal year 1979 consists of two items: (1) $4,400,000 to complete construction of a courthouse annex project; and (2) $36,205 for payment of settled claims on two construction projects for which funds are not currently available.

The Committee denies the $4,400,000 requested for the construction of the Federal courthouse annex as the revised prospectus for this project has not yet been approved.

PORT OF ENTRY FACILITY AT SAN LUIS, ARIZONA

The Committee has become aware of the fact that the building which houses the Customs Service and Immigration and Naturalization Service at the port of entry at San Luis, Arizona, is clearly inadequate and is an impediment to the growing volume of trade and traffic across the border. Its physical condition, moveover, has become something of a local scandal.

GSA has been aware of the situation at San Luis now for a decade at least. Over two years ago, the Western Regional Office designated San Luis as one of its three top priorities. Plans for the necessary construction, however, have yet to be formulated. In the meantime, costs scar and the problems worsen. The Committee, therefore, directs GSA to submit a prospectus for the construction of a new San Luis facility no later than August 1, 1979.

FEDERAL SUPPLY SERVICE

GENERAL SUPPLY FUND

1979 appropriations to date	----------
1979 supplemental estimate	$81,300,000
House allowance	10,000,000
Committee recommendation	10,000,000

The agency has requested a supplemental appropriation of $81,300,000 to provide funds to replace about 15,000 vehicles that currently exceed the replacement criteria. The Committee has concurred in the recommendations of the House and allowed for $10,000,000 for this purpose.

This request was made because the agency had been depreciating its vehicle fleet based on purchase cost instead of replacement cost and over time this legislative requirement depleted the funds available to maintain the vehicle fleet. The accounting procedure has now been corrected by legislation. The Committee also notes that GSA has funds already available in the General Supply Fund for the purchase of about 10,000 vehicles and motor pool sales in fiscal year 1980 are estimated to be over $200,000,000. With the accounting changes, the funds already available to the agency, the additional funds expected to be available through motor pool sales, and the additional funds provided for by this bill, the agency appears to have adequate resources to help move the motor pool fleet substantially toward a self-sustaining basis.

The Committee is also concerned that the agency is maintaining motor pool fleets in large metropolitan areas in spite of the availability of public transportation and the availability of private sector services adequate to meet the needs of the Government. The Committee directs the agency to reexamine the need for motor pool fleets in large metropolitan areas and report back to the Committee by January 1, 1980.

NATIONAL ARCHIVES AND RECORDS SERVICE

RECORDS DECLASSIFICATION

1979 appropriations to date	$1, 565, 000
1979 supplemental estimate	1, 460, 000
House allowance	1, 000, 000
Committee recommendation	---------

The agency has requested $1,460,000 and 69 additional positions to accelerate the declassification of records. This request is denied.

The request is made in order to implement Executive Order 12065 which calls for a systematic review over the next 10 years of all classified records in the National Archives which are now or will, by 1988, be 20 years old. This Executive order reduces the age of material subject to systematic review from 30 to 20 years old and gives NARS 10 years to reach that goal. The Committee does not feel that a long-range project such as this qualifies for a supplemental.

GENERAL MANAGEMENT AND AGENCY OPERATIONS

SALARIES AND EXPENSES

1979 appropriations to date	$14, 800, 000
1979 supplemental estimate	1, 700, 000
House allowance	1, 700, 000
Committee recommendation	---------

The agency has requested an appropriation of $1,700,000 and 100 additional positions to provide funds to increase the staff of the Office of Inspector General. This request is denied without prejudice.

The Committee believes that funding the Office of Inspector General as a part of the "General Management and Agency Operations" appropriation account is contrary to the intent of Congress to create the Office of Inspector General as an independent activity within the agency. The Committee therefore, proposes to provide the full request within a new appropriation account entitled "Office of Inspector General".

OFFICE OF INSPECTOR GENERAL

1979 appropriations to date	---------
1979 supplemental estimate	---------
House allowance	---------
Committee recommendation	$1, 700, 000

The Committee recommends an appropriation of $1,700,000 and 100 additional positions for the Office of Inspector General, the full amount of the supplemental request for this purpose. As discussed above, the Committee believes it to be more consistent with the intent of Congress to create a separate account for the Office of Inspector General and to fund its activities through that account.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

1979 appropriations to date	$110, 483, 000
1979 supplemental estimate	440, 000
House allowance	----------
Committee recommendation	240, 000

The agency has requested $440,000 and 31 positions to implement the Federal Employees Flexible and Compressed Work Schedules Act and to establish a Federal Ethics Directorate as required by the Public Officials Integrity Act. The Committee approves $240,000 and 20 positions of this request specifically for the Federal Ethics Directorate. The Work Schedules Act of 1978 requires a 3-year study of the "Flextime Concept." The Committee believes that the agency ought to be able to fund this activity with funds already available in the current appropriation of in excess of $110,000,000.

PAYMENT TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND

1979 appropriations to date	$2, 105, 283, 000
1979 supplemental estimate	335, 355, 000
House allowance	335, 355, 000
Committee recommendation	335, 355, 000

The Committee recommends an appropriation of $335,355,000, the full amount of the supplemental request.

This supplemental provides funds for the mandatory payment to the Civil Service Retirement and Disability Fund. Under the provisions of the Civil Service Retirement Amendments of 1969, unfunded liability generated by new statutes must be financed in 30 equal annual installments, with the first payment due as of the end of the fiscal year in which each new liberalization, extension of coverage, or increase in pay is effective. This request consists of: (1) The first of 30 annual payments for the October 1978 pay raise for the general schedule and wage board employees. This first payment will be $275,000,000; (2) a recomputation of the October 1977 pay raise which amounts to $57,455,000; and (3) Public Law 95-318, which provides for reinstatement of survivor annuities covering those widows and widowers whose remarriages occurred before July 18, 1966. These payments amount to $2.9 million.

No positions are funded by this appropriation.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

1979 appropriations to date	$9, 373, 000
1979 supplemental estimate	1, 048, 000
House allowance	750, 000
Committee recommendation	1, 048, 000

The agency has requested $1,048,000 and 59 additional positions for the startup costs of the Board. The Committee recommends approval of the full request.

The Committee is interested in providing the necessary resources to the Board in order to insure that it is fully able to execute its responsibilities as assigned to it by the Civil Service Reform Act of 1978.

OFFICE OF SPECIAL COUNSEL

1979 appropriations to date	$574,000
1979 supplemental estimate	842,000
House allowance	700,000
Committee recommendation	842,000

The agency has requested $842,000 and 30 additional positions for 1979. The Committee recommends approval of the full request. The Committee is interested in providing the Office with all necessary resources needed in order for it to carry out the responsibilities assigned to it by the Civil Service Reform Act of 1978.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

1979 appropriations to date	$8,388,000
1979 supplemental estimate	1,360,000
House allowance	1,360,000
Committee recommendation	1,360,000

The agency has requested $1,360,000 and 23 additional positions for fiscal year 1979. The Committee recommends approval of the full request. The Committee fully supports the activities of the Federal Labor Relations Authority and is interested in providing the Agency with all necessary resources to carry out the responsibilities assigned to it.

PRESIDENT'S COMMISSION ON PENSION POLICY

SALARIES AND EXPENSES

The administration has revised their request in H. Doc. 99–132, by requesting the funds in 1980 rather than in 1979.

INTERNATIONAL COMMODITY AGREEMENTS

Investment in International Tin Buffer Stocks

1979 appropriations to date	----------
1979 supplemental estimate	$60,000,000
House allowance	----------
Committee recommendation	----------

The Committee denies without prejudice the $60,000,000 requested in the supplemental.

The proposed supplemental would provide the funds necessary to credit the accounts of the national and supplemental stockpiles managed by the General Services Administration and to transfer from those stockpiles tin to the international tin buffer stocks. This buffer stock is operated by the International Tin Agreement for the purpose of stabilizing tin prices.

The Committee notes that there is legislation pending (H.R. 595) which would provide for the acquisition of this material without the need for an appropriation.

GENERAL PROVISIONS

The Committee denies without prejudice the three sections of general provisions proposed in House Document 96–113 dated May 4, 1979. These sections would exempt wage board employees who make under $8,778 from the 5.5 percent pay cap included in section 614 of the Treasury, Postal Service, and General Government Appropriations Act of 1979.

None of the witnesses which appeared before the Committee, including the several witnesses from the Executive Office of the President, provided testimony or justification in support of the proposed changes. Because of the lateness of the request and the lack of justification for it, the Committee has deferred consideration of the proposal until the Committee considers the fiscal year 1980 requests.

PERSONNEL

The Committee has specifically reduced the number of positions requests in this chapter by 105 below the number proposed in the budget request.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Requested in H. Doc. 96-41	Department or activity	Budget estimates	Recommended by House	Recommended by committee	Bill compared with estimates	Bill compared with House
	CHAPTER XI					
	DEPARTMENT OF THE TREASURY					
	International affairs	$5,442,000			−$5,442,000	
	Bureau of Government Financial Operations:					
	Salaries and expenses	9,017,000	$9,017,000	$9,017,000		
	Payment to the Government of Guam	216,000	216,000	216,000		
	Total, Bureau of Government Financial Operations	9,233,000	9,233,000	9,233,000		
	Bureau of Alcohol, Tobacco, and Firearms	1,700,000	400,000	400,000	−1,300,000	
	U.S. Customs Service	2,848,000			−2,848,000	
	Bureau of the Mint	1,600,000	1,531,000		−1,600,000	−$1,531,00
	Internal Revenue Service:					
	Salaries and expenses	1,492,000	1,362,000	1,362,000	−130,000	
	Taxpayer service and returns processing	35,445,000	27,555,000	27,555,000	−7,890,000	
	Examinations and appeals	1,721,000			−1,721,000	
	Investigations and collections	859,000			−859,000	
	Payment where energy credit exceeds liability for tax	700,000	700,000	700,000		
	Total, Internal Revenue Service	40,217,000	29,617,000	29,617,000	−10,600,000	
	U.S. Secret Service	700,000			−700,000	
	Total, Department of the Treasury	61,740,000	40,781,000	39,250,000	−22,490,000	−1,531,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Requested in H. Doc. 95-41	Department or activity	Budget estimates	Recommended by House	Recommended by committee	Bill compared with estimates	Bill compared with House
	CHAPTER XI—Continued					
	U.S. POSTAL SERVICE					
	Payment to the Postal Service Fund	$18,233,000	$18,233,000		−$18,233,000	−$18,233,000
	EXECUTIVE OFFICE OF THE PRESIDENT					
	Council on Wage and Price Stability	5,199,000	3,199,000	$3,199,000	−2,000,000	
	INDEPENDENT AGENCIES					
	General Services Administration:					
	Federal Buildings Fund:					
	Limitation on availability of revenue:					
	Construction of buildings	(4,436,205)	(36,205)	(36,205)	(−4,400,000)	
	Rental of space	(14,000,000)	(14,000,000)	(14,000,000)		
	Real property operations	(−7,000,000)	(−7,000,000)	(−7,000,000)		
	Total, Federal Buildings Fund	(11,436,205)	(7,036,205)	(7,036,205)	(−4,400,000)	
	Federal Supply Service: General supply fund	81,300,000	10,000,000	10,000,000	−71,300,000	
	National Archives and Records Service: Records declassification	1,460,000	1,000,000		−1,460,000	−1,000,000

General Activities:					
General Management and Agency Operations:					
Salaries and expenses	1,700,000	1,700,000		−1,700,000	−1,700,000
Office of Inspector General			1,700,000	+1,700,000	+1,700,000
Total, General Services Administration	84,400,000	12,700,000	11,700,000	−72,700,000	−1,000,000
Office of Personnel Management:					
Salaries and expenses	440,000		240,000	−200,000	+240,000
Payment to civil service retirement and disability fund	335,355,000	335,355,000	335,355,000		
Total, Office of Personnel Management	335,795,000	335,355,000	335,595,000	−200,000	+240,000
Merit Systems Protection Board:					
Salaries and expenses	1,048,000	750,000	1,048,000		+298,000
Office of Special Counsel	842,000	700,000	842,000		+142,000
Total, Merit Systems Protection Board	1,890,000	1,450,000	1,890,000		+440,000
Federal Labor Relations Authority: Salaries and expenses	1,380,000	1,380,000	1,380,000		
International Commodity Agreements: Investment in International Tin Buffer Stocks	60,000,000			−60,000,000	
Total, independent agencies	453,505,000	320,865,000	320,545,000	−132,960,000	−320,000
Total, chapter XI: New budget (obligational) authority	568,677,000	413,078,000	392,994,000	−175,683,000	−20,084,000

CHAPTER XII

DISTRICT OF COLUMBIA

TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

SALARIES AND EXPENSES

1979 appropriations to date	$3,000,000
1979 supplemental request	[1] 4,500,000
House allowance	
Committee recommendation	4,500,000

[1] Estimate received in H. Doc. 96–58. Not considered by House.

The Committee recommends $4,500,000, as requested, for the Federal Government's share of the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, to remain available until expended. The District of Columbia's contribution toward the expenses of the Commission is included under the appropriation "General operating expenses."

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

1979 appropriations to date	$245,300,000
1979 supplemental request	[1] 69,465,000
House allowance	
Committee recommendation	19,465,000

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $19,465,000, a reduction of $50,000,000 below the budget request. The recommended allowance provides an additional $15,000.000 for the Federal payment to the District of Columbia; an additional $1.900.000, as requested, in lieu of reimbursements for water and sewer services provided to the Federal Government; and $2,565,000, as requested, as reimbursement for expenses incurred as a result of the American Agricultural Movement demonstration on the Mall.

DISTRICT OF COLUMBIA FUNDS

GENERAL OPERATING EXPENSES

1979 appropriations to date	$93,765,300
1979 supplemental request	[1] 22,637,900
House allowance	
Committee recommendation	14,760,900

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $14,760,900, a reduction of $7,877,000 below the budget request. The recommended allowance provides the following: $69,500 for the Office of the Inspector General personnel costs; $200,000 for water and sewer services billing and accounting system improvements; $4,500,000 for the District's share of funding to implement a unified financial management system under the direction of the Temporary Commission on Financial Oversight of the District of Columbia; $250,000 for settlement of claims and suits not exceeding $1,500 for property damage and $5,000 for personal injury; $857,700 for increased costs of steam and electricity; $935,000 for space rental and relocation costs; $150,000 for water service damage claims; $174,000 for utility (steam) costs in the library system; $218,000 for the costs of the May 1979, special election; $143,000 for the Commission on the Arts and Humanities; and $7,263,700 to initiate a special summer jobs program for area youth.

Various mayoral orders issued in January, 1979, directed the reorganization of several offices and departments in the District government included in this budget activity. The Committee has no objection to these adjustments.

The Committee has denied the request for $300,000 for staff support costs related to the new financial management system. A reprogramming request to cover these costs for the remainder of the fiscal year will be given immediate attention when forwarded by the District government.

PUBLIC SAFETY

1979 appropriations to date	$265, 190, 200
1979 supplemental request	[1] 14, 984, 100
House allowance	
Committee recommendation	11, 111, 000

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $11,111,000, a reduction of $3,873,100 below the budget request. The recommended allowance provides the following: $6,718,400 for police pension payments; $2,841,600 for fire department pension payments; $162,800 for fire department ambulance services; $500,000 for Superior Court juror fees; $300,000 for Superior Court witness fees; $178,600 for computer services for the Pretrial Services Agency; $50,400 for National Guard personnel costs; and $359,200 for reclassification costs of correctional officers.

The funding provided for police and fire pension payments represents a 20-percent reduction from the amount requested. The Committee expects the District to continue administrative efforts to improve the pension system.

EDUCATION

1979 appropriations to date	$283, 605, 400
1979 supplemental request	[1] 2, 387, 500
House allowance	
Committee recommendation	1, 823, 900

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $1,823,900, a reduction of $563,600 below the budget request. The recommended allowance provides the following: $1,100,000 for personnel costs resulting from the reclassification of public school food service workers; and $723,900 for the University of the District of Columbia to initiate a special summer remedial program. This program will diagnose problems of students planning to enroll in the fall at the university, enabling the faculty to develop and implement necessary remedial programs in mathematics, reading, and English.

RECREATION

1979 appropriations to date	$18,392,700
1979 supplemental request	[1] 151,800
House allowance	----------
Committee recommendation	43,000

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $43,000, a reduction of $108,800 below the budget request. The recommended allowance will provide funding to operate the Wilson indoor swimming pool during the summer.

HUMAN RESOURCES

1979 appropriations to date	$283,321,300
1979 supplemental request	[1] 9,435,700
House allowance	----------
Committee recommendation	5,161,700

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $5,161,700, a reduction of $4,274,000 below the budget request. The recommended allowance provides the following: $4,000,000 for public assistance caseload increases; $1,000,000 for public assistance payment increases; and $161,700 for placement of Forest Haven residents into the community, as directed by court order.

The budget request includes $7,008,800 for public assistance caseload increases and $1,708,200 for increased assistance payments. The Committee expects that improvements in error rates for public assistance payments will minimize the reductions recommended herein.

The Committee expects that within available resources the Department of Human Resources initiate improvements in its program for licensing and monitoring community residential facilities.

TRANSPORTATION

1979 appropriations to date	$78,735,200
1979 supplemental request	[1] 5,277,000
House allowance	----------
Committee recommendation	4,194,900

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $4,194,900, a reduction of $1,082,100 below the budget request. The recommended allowance provides for the following: $500,000 for increased costs of electricity for street lighting; and $3,694,900 for snow and ice control resulting from the severe snow storms experienced this past winter.

The budget request proposes the transfer of $3,969,400 originally earmarked for the District's share of debt service on bonds of the Washington Metropolitan Area Transit Authority (WMATA). Subsequent to approval of the regular fiscal year 1979 budget, the WMATA Board of Directors authorized the payment of debt service from internally generated funds. The transfer would apply the funding toward the District's share of the Metrobus operating subsidy for fiscal year 1979. The Committee has no objection to this transfer.

ENVIRONMENTAL SERVICES

1979 appropriation to date	$76,069,800
1979 supplemental request	[1] 5,256,400
House allowance	------
Committee recommendation	1,144,600

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $1,144,600, a reduction of $4,111,800 below the budget request. The recommended allowance provides the following: $195,000 for water and sewer service billing and accounting system improvements; and $949,600 for increased utility costs for water resource management facilities. The Committee expects that within available funds the Department of Environmental Services initiate environmental evaluations of community residential facilities, in conjunction with the program under the Department of Human Resources.

The budget requests includes $4,024,000 under this account for costs associated with construction of a temporary sludge composting facility at the site of the Blue Plains waste water treatment plant. Due to time constraints imposed by a court order, the Department of Environmental Services purchased equipment and let contracts all charged to the capital improvement project for construction of the treatment plant. The Committee feels that these costs are a justifiable expense against the capital improvement project and has not recommended funding under this budget account.

PERSONAL SERVICES

1979 appropriations to date	$69,300,000
1979 supplemental request	[1] 16,000,000
House allowance	------
Committee recommendation	12,000,000

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $12,000,000, a reduction of $4,000,000 below the budget request.

SETTLEMENT OF CLAIMS AND SUITS

1979 appropriations to date	$322,800
1979 supplemental request	[1] 291,500
House allowance	------
Committee recommendation	291,500

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee recommends an appropriation of $291,500, the same as the budget request, for settlement of claims and suits brought against the District of Columbia.

TRANSITION EXPENSES

1979 appropriations to date	------
1979 supplemental request	[1] $71,700
House allowance	------
Committee recommendation	------

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee has denied the request for expenses related to the change in administration of the city government. The Committee expects that these costs be absorbed by the offices and agencies involved.

DEMONSTRATION EXPENSES

1979 appropriations to date	
1979 supplemental request	
House allowance	
Committee recommendation	$2,565,000

The Committee recommends an appropriation of $2,565,000 under this special account as reimbursement for expenses incurred in the American Agricultural Movement demonstration on the Mall. The supplemental request forwarded to Congress made provisions for this funding in the Federal payment, but did not provide a mechanism in the District's budget for allocation of the funds. While most of the costs were incurred by the Metropolitan Police Department, several other district agencies were involved. This account will provide funding to reimburse all agencies, and is similar to the special account established to cover inaugural expenses.

CAPITAL OUTLAY

1979 appropriations to date	$77,215,000
1979 supplemental request	[1] 48,728,000
House allowance	
Committee recommendation	

[1] Estimate received in H. Doc. 96–138. Not considered by House.

The Committee has denied the request for funding to cover the costs of additional capital improvement projects. None of the requested projects are of an emergency nature, and funding can await a regular appropriation bill.

In addition to requesting additional budget authority, the supplemental includes a proposal to reprogram $28,475,700 from existing Department of Transportation projects to fund prior year obligations for capital projects. The Committee has no objection to this reprogramming.

Funding for the District's portion of the Metro rail construction program has been deferred due to the absence of authorizing legislation.

PERSONNEL LEVELS

The supplemental request forwarded to Congress included provisions for 314 additional full-time permanent positions. The recommendations of the Committee allow for 20 new positions as follows: 2 positions under the Office of Financial Management related to improvements in the water and sewer service billing and accounting system; 10 positions under the University of the District of Columbia to initiate a special summer remedial program for the University College; 3 positions under the Department of Recreation for operation of the Wilson swimming pool; and 5 positions under the Department of Environmental Services for improvements in the water and sewer service billing and accounting system. These 20 positions are to be absorbed within the overall personnel ceiling established by Public Law 95–373.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
CHAPTER XII					
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA					
Salaries and expenses	$4,500,000		$4,500,000		+$4,500,000
DISTRICT OF COLUMBIA					
FEDERAL FUNDS					
Federal payment to the District of Columbia	69,465,000		19,465,000	−$50,000,000	+19,465,000
Total Federal payment to the District of Columbia	73,965,000		23,965,000	−50,000,000	+23,965,000
DISTRICT OF COLUMBIA FUNDS					
General operating expenses	(22,637,900)		(14,760,900)	(−7,877,000)	(+14,760,900)
Public safety	(14,984,100)		(11,111,000)	(−3,873,100)	(+11,111,000)
Education	(2,387,500)		(1,823,900)	(−563,600)	(+1,823,900)
Recreation	(151,800)		(43,000)	(−108,800)	(+43,000)
Human resources	(9,435,700)		(5,161,700)	(−4,274,000)	(+5,161,700)
Transportation	(5,277,000)		(4,194,900)	(−1,082,100)	(+4,194,900)
Environmental services	(5,256,400)		(1,144,600)	(−4,111,800)	(+1,144,600)
Personal services	(16,000,000)		(12,000,000)	(−4,000,000)	(+12,000,000)
Settlement of claims and suits	(291,500)		(291,500)		(+291,500)
Transition expenses	(71,700)			(−71,700)	
Demonstration expenses	(2,565,000)		(2,565,000)		(+2,565,000)
Capital outlay	(48,728,000)			(−48,728,000)	
Total, District of Columbia funds	(127,786,600)		(53,096,500)	(−74,690,100)	(+53,096,500)
Total, Ch. XII:					
New budget (obligational authority)	73,965,000		23,965,000	−50,000,000	(+23,965,000)
District of Columbia funds	(127,786,600)		(53,096,500)	(−74,690,100)	(+53,096,500)

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TITLE II

INCREASED PAY COSTS, FISCAL YEAR 1979

Title II provides amounts to meet increased pay costs for fiscal year 1979. The estimates are included in House Documents 96–41, 96–54, and 96–132. The following table summarizes recommendations of the Committee for pay cost increases in the bill:

	Estimates	Recommended in the bill	Differences
New budget (obligational) authority	$2,591,408,300	$2,412,228,100	−179,180,200
By transfer	(28,379,331)	(36,831,331)	(+8,452,000)
Trust fund transfer	(5,276,000)	(5,276,000)	
Increase in limitations	(83,058,000)	(47,456,000)	(−35,602,000)
Release of sec. 311 funds and transfers		(13,841,200)	(+13,841,200)

Title II includes $2,412,228,100 in budget authority for fiscal year 1979. Government agencies and departments absorbed nearly 28 percent of pay and related costs for fiscal year 1979. This Committee has recommended reductions of $179,180,200 under the budget requests.

The increases provided in title II were ordered pursuant to law, as follows:

> Civil and military pay raises were effective in October 1978 under Executive Order No. 12087 and comparable raises were granted by administrative action. Executive Order No. 12087 was issued pursuant to public laws. Public Law 91–656 provides for adjusting the salary scale of civilian statutory pay systems to rates comparable to those paid for similar work in private industry. Public Law 90–207 provides that whenever the rates of the General Schedule are raised, there must be a comparable increase in the basic pay of the uniformed services.
>
> Actual wageboard pay increases effective in fiscal year 1979 and granted under 5 U.S.C. 5341, together with additional raises to be granted under the same authority through September 30, 1979.

The total estimated cost of these pay raises is $3.6 billion in fiscal 1979. These amounts include related costs such as Government retirement and life insurance contributions and the Government's share of employment taxes in the amount of $295.9 million.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE II—INCREASED PAY COSTS

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	TITLE II					
	INCREASED PAY COSTS					
	LEGISLATIVE BRANCH					
	Senate					
	Salaries, officers and employees	$6,019,000	—	$6,019,000	—	+$6,019,000
	Office of the Legislative Counsel of the Senate	25,000	—	25,000	—	+25,000
	Senate policy committees	74,000	—	74,000	—	+74,000
	Inquiries and investigations	1,330,000	—	1,330,000	—	+1,330,000
	Folding documents	6,000	—	6,000	—	+6,000
	Miscellaneous items	13,000	—	13,000	—	+13,000
	Total, Senate	7,467,000	—	7,467,000	—	+7,467,000
	House of Representatives					
	House leadership offices	75,200	$75,200	75,200	—	—
	Salaries, officers and employees	1,357,700	1,357,700	1,357,700	—	—
	Committee on Appropriations (Studies and Investigations)	8,900	8,900	8,900	—	—
	Office of the Law Revision Counsel	14,000	14,000	14,000	—	—
	Office of the Legislative Counsel	60,400	60,400	60,400	—	—
	Members' clerk hire	5,142,400	5,142,400	5,142,400	—	—

	Allowances and expenses	773,600	773,600	773,600	—	—
	Special and select committees	2,572,000	—	—	-$2,572,000	—
	Total, House of Representatives	10,004,200	7,432,200	7,432,200	-2,572,000	—
	Joint Items					
	Joint Economic Committee	70,000	—	—	-70,000	—
—	(Release of Sec. 311 funds)	—	(70,000)	(70,000)	(+70,000)	—
	Joint Committee on Taxation	77,100	—	—	-77,100	—
—	(Release of Sec. 311 funds)	—	(75,100)	(75,100)	(+75,100)	—
	Education of pages	10,900	10,900	10,900	—	—
	Capitol Guide Service	29,000	29,000	29,000	—	—
	Total, Joint items	187,000	39,900	39,900	-147,100	—
	(Release of Sec. 311 funds)	—	(145,100)	(145,100)	(+145,100)	—
	Office of Technology Assessment					
	Salaries and expenses	196,000	—	—	-196,000	—
	Congressional Budget Office					
	Salaries and expenses	261,100	—	—	-261,100	—
—	(Release of Sec. 311 funds)	—	(261,100)	(261,100)	(+261,100)	—
	Architect of the Capitol					
	Office of the Architect of the Capitol: Salaries	108,000	—	—	-108,000	—
—	(By transfer of Sec.311 from House Office Buildings)	—	(108,000)	(108,000)	(+108,000)	—
	Capitol buildings	223,000	—	—	-223,000	—
—	(By transfer of Sec.311 from House Office Buildings)	—	(223,000)	(223,000)	(+223,000)	—
	Capitol grounds	79,000	—	—	-79,000	—
—	(By transfer of Sec.311 from House Office Buildings)	—	(79,000)	(79,000)	(+79,000)	—
	Senate office buildings	389,000	—	—	-389,000	—
	(By release of $55,000 of Sec. 311 funds and transfer of $273,000 of Sec. 311 funds from Capitol Power Plant and $61,000 from House Office Buildings)	—	—	(389,000)	(+389,000)	(+389,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	Senate garage	$7,000	---	---	-$7,000	---
	(By transfer of Sec. 311 funds from Capitol Power Plant)	---	---	($7,000)	(+7,000)	(+$7,000)
	House office buildings	570,000	---	---	-570,000	---
—	(Release of Sec. 311 funds)	---	($570,000)	(570,000)	(+570,000)	---
	Capitol Power Plant	100,000	---	---	-100,000	---
—	(Release of Sec. 311 funds)	---	(100,000)	(100,000)	(+100,000)	---
	Structural and mechanical care, Library buildings and grounds	95,000	---	---	-95,000	---
—	(By transfer of Sec.311 from House Office Buildings)	---	(95,000)	(95,000)	(+95,000)	---
	Total, Architect of the Capitol	1,571,000	---	---	-1,571,000	---
	(Release of Sec. 311 funds and transfers)	---	(1,175,000)	(1,571,000)	(+1,571,000)	(+396,000)
	Botanic Garden					
	Salaries and expenses	56,000	---	---	-56,000	---
—	(By transfer of Sec.311 from House Office Buildings)	---	(56,000)	(56,000)	(+56,000)	---
	Library of Congress					
	Salaries and expenses	3,320,000	---	---	-3,320,000	---
—	(Release of Sec. 311 funds)	---	(1,387,000)	(1,387,000)	(+1,387,000)	---
—	(By transfer of Sec. 311 from Books for the blind and physically handicapped)	---	(1,933,000)	(1,933,000)	(+1,933,000)	---
	Copyright Office: Salaries and expenses	561,000	---	---	-561,000	---
—	(By transfer of Sec. 311 from Books for the blind and physically handicapped)	---	(61,000)	(61,000)	(+61,000)	---

Congressional Research Service: Salaries and expenses	1,031,000	—	—	-1,031,000	—
(Release of Sec. 311 funds)	—	(1,031,000)	(1,031,000)	(+1,031,000)	—
Books for the blind and physically handicapped:					
Salaries and expenses	115,000	—	—	-115,000	—
(Release of Sec. 311 funds)	—	(115,000)	(115,000)	(+115,000)	—
Collection and distribution of library materials (special foreign currency program)	17,000	—	—	-17,000	—
Total, Library of Congress	5,044,000	—	—	-5,044,000	—
(Release of Sec. 311 funds and transfers)	—	(4,527,000)	(4,527,000)	(+4,527,000)	—
Government Printing Office					
Office of Superintendent of Documents: Salaries and expenses	285,000	—	—	-285,000	—
General Accounting Office					
Salaries and expenses	7,281,000	—	—	-7,281,000	—
(Release of Sec. 311 funds)	—	(7,281,000)	(7,281,000)	(+7,281,000)	—
Total, Legislative Branch	32,352,300	7,472,100	14,939,100	-17,413,200	+7,467,000
(Release of Sec. 311 funds and transfers)	—	(13,445,200)	(13,841,200)	(+13,841,200)	(+396,000)
THE JUDICIARY					
Supreme Court of the United States					
Salaries and expenses	400,000	—	—	-400,000	—
Care of the building and grounds	36,000	25,000	25,000	-11,000	—
Total, Supreme Court of the United States	436,000	25,000	25,000	-411,000	—
Court of Customs and Patent Appeals					
Salaries and expenses	39,000	22,000	22,000	-17,000	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −):	
					Budget estimates	House bill
	Customs Court					
	Salaries and expenses	$129,000	$40,000	$40,000	-$89,000	---
	Court of Claims					
	Salaries and expenses	95,000	50,000	50,000	-45,000	---
	Courts of Appeals, District Courts, and Other Judicial Services					
	Salaries of supporting personnel	8,954,000	7,500,000	7,500,000	-1,454,000	---
	Defender services	408,000	---	---	-408,000	---
	Salaries and expenses of magistrates	296,000	---	---	-296,000	---
	Salaries and expenses of referees	1,358,000	1,358,000	1,358,000	---	---
	Total, Courts of appeals, district courts, and other judicial services	11,016,000	8,858,000	8,858,000	-2,158,000	---
	Administrative Office of the United States Courts					
	Salaries and expenses	499,000	499,000	499,000	---	---

Federal Judicial Center					
Salaries and expenses	132,000	104,000	104,000	-28,000	---
Total, The Judiciary	12,346,000	9,598,000	9,598,000	-2,748,000	---
EXECUTIVE OFFICE OF THE PRESIDENT					
The White House Office: Salaries and expenses	452,000	452,000	452,000	---	---
Executive Residence at the White House:					
Operating expenses	108,000	108,000	108,000	---	---
Special Assistance to the President:					
Salaries and expenses	35,000	35,000	35,000	---	---
Domestic Policy Staff: Salaries and expenses	44,000	44,000	44,000	---	---
National Security Council: Salaries and expenses	125,000	125,000	125,000	---	---
Office of Administration: Salaries and expenses	183,000	183,000	183,000	---	---
Office of Management and Budget: Salaries and expenses	844,000	844,000	844,000	---	---
Office of Science and Technology Policy:					
Salaries and expenses	37,000	20,000	20,000	-17,000	---
Office of the Special Representative for Trade Negotiations: Salaries and expenses	42,000	42,000	42,000	---	---
Total, Executive Office of the President	1,870,000	1,853,000	1,853,000	-17,000	---
DEPARTMENT OF AGRICULTURE					
Office of the Secretary	105,000	105,000	105,000	---	---
Departmental administration	508,000	508,000	508,000	---	---
Working capital fund	(1,252,000)	(1,252,000)	(1,252,000)	---	---
Office of the Inspector General	557,000	150,000	150,000	-407,000	---
(Transfer from Food Stamp Program)	(303,000)	(303,000)	(303,000)	---	---
Total, Office of Inspector General	557,000	150,000	150,000	-407,000	---
Office of the General Counsel	347,000	347,000	347,000	---	---
Agricultural Research Service	10,050,000	2,500,000	7,500,000	-2,550,000	+$5,000,000
National Agricultural Library	200,000	---	---	-200,000	---
Economics, Statistics, and Cooperatives Service	2,966,000	2,450,000	2,450,000	-516,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	World food and agricultural outlook and situation board	$40,000	—	—	−$40,000	—
	Foreign Agricultural Service	570,000	$570,000	$570,000	—	—
	Federal Crop Insurance Corporation:					
	Federal Crop Insurance Corporation fund: (Increase in limitation)	(560,000)	(560,000)	(560,000)	—	—
	Rural Electrification Administration:					
	Salaries and expenses	756,000	756,000	256,000	−500,000	−500,000
	Farmers Home Administration: Salaries and expenses	6,813,000	6,813,000	6,813,000	—	—
	Soil Conservation Service:					
	Conservation operations	8,587,000	6,000,000	6,936,000	−1,651,000	+$936,000
	River basin surveys and investigations	490,000	490,000	—	−490,000	−490,000
	Watershed planning	446,000	446,000	—	−446,000	−446,000
	Great plains conservation program	401,000	401,000	401,000	—	—
	Resource conservation and development	441,000	441,000	441,000	—	—
	Total, Soil Conservation Service	10,365,000	7,778,000	7,778,000	−2,587,000	—
	Animal and Plant Health Inspection Service	5,178,000	5,178,000	5,178,000	—	—
	Agricultural Marketing Service: Marketing services	1,352,000	1,352,000	1,352,000	—	—
	Food Safety and Quality Service	10,677,000	6,677,000	8,677,000	−2,000,000	+2,000,000
	Funds for strengthening markets, income and supply (section 32): (Increase in limitation)	(197,000)	(197,000)	(197,000)	—	—
	Food and Nutrition Service:					
	Food program administration	2,149,000	2,149,000	2,149,000	—	—

Forest Service:					
Forest protection and utilization	28,741,000	21,556,000	21,556,000	-7,185,000	—
Construction and land acquisition	442,000	332,000	332,000	-110,000	—
Forest roads and trails	9,489,000	7,117,000	7,117,000	-2,372,000	—
Assistance to States for tree improvement	18,000	14,000	14,000	-4,000	—
Total, Forest Service	38,690,000	29,019,000	29,019,000	-9,671,000	—
Total, Department of Agriculture	91,323,000	66,352,000	72,852,000	-18,471,000	+6,500,000
(Increase in limitations)	(757,000)	(757,000)	(757,000)	—	—
DEPARTMENT OF COMMERCE					
General Administration					
Salaries and expenses	730,000	740,000	740,000	-40,000	—
Bureau of the Census					
Salaries and expenses	1,837,000	1,747,000	1,747,000	-90,000	—
Periodic censuses and programs	5,398,000	5,128,000	5,128,000	-270,000	—
Total, Bureau of the Census	7,235,000	6,875,000	6,875,000	-360,000	—
Economic and Statistical Analysis					
Salaries and expenses	547,000	547,000	547,000	—	—
Economic Development Administration					
Salaries and expenses	1,301,000	1,236,000	1,236,000	-65,000	—
Local Public Works Program	387,000	368,000	368,000	-19,000	—
Total, Economic Development Administration	1,688,000	1,604,000	1,604,000	-84,000	—
Industry and Trade Administration					
Operations and administration	1,888,000	1,798,000	1,798,000	-90,000	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	United States Travel Service					
	Salaries and expenses	$97,000	$97,000	$97,000	—	—
	National Oceanic and Atmospheric Administration					
	Operations, research, and facilities	16,503,000	15,703,000	15,703,000	-$800,000	—
	Coastal zone management	140,000	140,000	140,000	—	—
	Total, National Oceanic and Atmospheric Administration	16,643,000	15,843,000	15,843,000	-800,000	—
	Patent and Trademark Office					
	Salaries and expenses	3,054,000	3,054,000	3,054,000	—	—
	Science and Technical Research					
	Scientific and technical research and services	2,740,000	2,600,000	2,600,000	-140,000	—
	National Telecommunications and Information Administration					
	Salaries and expenses	130,000	120,000	120,000	-10,000	—

Maritime Administration					
Operations and training	1,437,000	1,366,000	1,366,000	-71,000	—
Total, Department of Commerce	36,239,000	34,644,000	34,644,000	-1,595,000	—
DEPARTMENT OF DEFENSE--MILITARY					
Military Personnel					
Military personnel, Army	440,375,000	437,448,000	437,448,000	-2,927,000	—
Military personnel, Navy	306,700,000	297,433,000	297,433,000	-9,267,000	—
Military personnel, Marine Corps	97,425,000	96,525,000	96,525,000	-900,000	—
Military personnel, Air Force	366,199,000	362,134,000	366,199,000	—	+4,065,000
Reserve personnel, Army	18,950,000	9,950,000	13,550,000	-5,400,000	+3,600,000
Reserve personnel, Navy	8,975,000	—	4,475,000	-4,500,000	+4,475,000
Reserve personnel, Marine Corps	3,075,000	3,075,000	3,075,000	—	—
Reserve personnel, Air Force	7,750,000	7,750,000	7,750,000	—	—
National Guard personnel, Army	36,600,000	31,600,000	36,600,000	—	+5,000,000
National Guard personnel, Air Force	8,123,000	8,123,000	10,023,000	+1,900,000	+1,900,000
Total, Military personnel	1,294,172,000	1,254,038,000	1,273,078,000	-21,094,000	+19,040,000
Operation and Maintenance					
Operation and maintenance, Army	174,200,000	174,200,000	174,200,000	—	—
Operation and maintenance, Navy	128,200,000	128,200,000	128,200,000	—	—
Operation and maintenance, Marine Corps	2,800,000	2,800,000	2,800,000	—	—
Operation and maintenance, Air Force	97,900,000	97,900,000	97,900,000	—	—
Operation and maintenance, Defense agencies	102,200,000	82,200,000	102,200,000	—	+20,000,000
Operation and maintenance, Army Reserve	3,400,000	3,400,000	3,400,000	—	—
Operation and maintenance, Air Force Reserve	8,600,000	8,600,000	8,600,000	—	—
Operation and maintenance, Army National Guard	9,700,000	9,700,000	9,700,000	—	—
Operation and maintenance, Air National Guard	19,200,000	19,200,000	17,300,000	-1,900,000	-1,900,000
National Board for the Promotion of Rifle Practice, Army	10,000	10,000	10,000	—	—
Court of Military Appeals, Defense	90,000	90,000	90,000	—	—
Total, Operation and maintenance	546,300,000	526,300,000	544,400,000	-1,900,000	+18,100,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	Family Housing					
	Family housing, Defense	8,619,000	—	—	-8,619,000	—
	Total, Department of Defense--Military	1,849,091,000	1,780,338,000	1,817,478,000	-31,613,000	+37,140,000
	DEPARTMENT OF DEFENSE--CIVIL					
	DEPARTMENT OF THE ARMY					
	Corps of Engineers--Civil					
	Construction, General	—	—	10,000,000	+10,000,000	+10,000,000
	General expenses	2,400,000	2,400,000	2,400,000	—	—
	Operation and maintenance, general	16,600,000	16,600,000	16,600,000	—	—
	Total, Corps of Engineers--Civil	19,000,000	19,000,000	29,000,000	+10,000,000	+10,000,000
	Soldiers' and Airmen's Home					
	Operation and maintenance	590,000	590,000	590,000	—	—
	The Panama Canal					
—	Operating expenses	1,234,000	1,048,000	1,048,000	-186,000	—
	(By transfer)	—	(186,000)	(186,000)	(+186,000)	—

Corporation: Panama Canal Company (Increase in limitation)	(795,000)	(795,000)	(795,000)	—	—
Total, Department of Defense—Civil	20,824,000	20,638,000	20,638,000	-186,000	—
(Increase in limitations)	(795,000)	(795,000)	(795,000)	—	—
DEPARTMENT OF ENERGY					
Energy, science and defense activities, operating expenses	15,617,000	15,000,000	15,000,000	-617,000	—
Federal Energy Regulatory Commission, salaries and expenses	1,930,000	—	—	-1,930,000	—
Power Marketing Administrations	1,657,000	209,000	209,000	-1,248,000	—
Fossil energy research and development	2,154,000	1,301,000	1,571,000	-583,000	+$270,000
Energy production, demonstration, and distribution	312,000	234,000	234,000	-78,000	—
Energy conservation	472,000	354,000	354,000	-118,000	—
Strategic petroleum reserve	289,000	217,000	217,000	-72,000	—
Energy information administration, operating expenses	1,258,000	1,258,000	1,258,000	—	—
Total, Department of Energy	23,489,000	18,573,000	18,843,000	-4,646,000	+270,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
Food and Drug Administration					
Salaries and expenses	8,705,000	6,800,000	6,800,000	-1,905,000	—
Health Services Administration					
Indian health services	—	5,664,000	8,364,000	+8,364,000	+2,700,000
(By transfer)	(11,152,000)	(3,600,000)	—	(-11,152,000)	(-3,600,000)
Center for Disease Control					
Preventive health services	2,973,000	2,673,000	2,673,000	-300,000	—
National Institutes of Health					
Office of the Director (by transfer)	(784,000)	(784,000)	(784,000)	—	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	House bill
	Assistant Secretary for Health					
	Salaries and expenses	$1,672,000	$1,138,000	$1,138,000	−$534,000	---
	National Institute of Education					
	National Institute of Education	160,000	---	---	−160,000	---
	Alcohol, Drug Abuse, and Mental Health Administration					
96-54	Saint Elizabeths Hospital (by transfer)	(3,428,000)	(3,428,000)	(3,428,000)	---	---
	Health Care Financing Administration					
	Quality care management, research and administration	2,600,000	2,600,000	2,600,000	---	---
96-54	(Trust fund transfer)	(3,800,000)	(3,800,000)	(3,800,000)	---	---
	Social Security Administration					
	Limitation on salaries and expenses:					
	(Increase in limitation)	(71,500,000)	(37,500,000)	(37,500,000)	(−34,000,000)	---
	Public assistance	1,105,000	1,105,000	1,105,000	---	---
	Assistant Secretary for Human Development Services					
	Human development services	2,387,000	2,387,000	2,387,000	---	---

Departmental Management					
Office of Consumer Affairs	32,000	20,000	32,000	—	+$12,000
General departmental management	3,545,000	2,265,000	2,265,000	-1,280,000	—
Total, Departmental management	3,577,000	2,285,000	2,297,000	-1,280,000	+12,000
Total, Department of Health, Education, and Welfare	23,179,000	24,652,000	27,364,000	+4,185,000	+2,712,000
(Increase in limitations)	(71,500,000)	(37,500,000)	(37,500,000)	(-34,000,000)	—
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Management and Administration					
Salaries and expenses, Department of Housing and Urban Development	16,890,000	10,000,000	10,000,000	-6,890,000	—
DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	4,418,000	3,300,000	3,300,000	-1,118,000	—
Bureau of Reclamation					
Operation and maintenance	2,363,000	2,363,000	2,363,000	—	—
General administrative expenses	760,000	760,000	760,000	—	—
Total, Bureau of Reclamation	3,123,000	3,123,000	3,123,000	—	—
Heritage Conservation and Recreation Service					
Salaries and expenses	406,000	300,000	300,000	-106,000	—
Land and water conservation fund (increase in limitation)	(258,000)	(188,000)	(188,000)	(-70,000)	—
United States Fish and Wildlife Service					
Resource management	5,410,000	4,500,000	4,310,000	-1,100,000	-190,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	National Park Service					
	Operation of the National Park System	$9,121,000	$5,000,000	$7,041,000	-$2,080,000	+$2,041,000
	John F. Kennedy Center for the Performing Arts	83,000	---	---	-83,000	---
	Planning, development, and operation of recreation facilities	350,000	---	---	-350,000	---
	Total, National Park Service	9,554,000	5,000,000	7,041,000	-2,513,000	+2,041,000
	Geological Survey					
	Surveys, investigations and research	10,414,000	9,511,000	9,511,000	-903,000	---
	Bureau of Mines					
	Mines and minerals	2,186,000	1,500,000	1,500,000	-686,000	---
	Bureau of Indian Affairs					
	Operation of Indian programs	13,704,000	10,300,000	10,300,000	-3,404,000	---
	Office of Territorial Affairs					
	Administration of territories	100,000	75,000	75,000	-25,000	---
	Trust Territory of the Pacific Islands	130,000	98,000	98,000	-32,000	---
	Total, Office of Territorial Affairs	230,000	173,000	173,000	-57,000	---

Office of the Solicitor					
Salaries and expenses	526,000	500,000	500,000	-26,000	—
Office of the Secretary					
Departmental management	1,217,000	900,000	900,000	-317,000	—
Total, Department of the Interior	51,188,000	39,107,000	40,938,000	-10,230,000	+1,831,000
DEPARTMENT OF JUSTICE					
General Administration					
Salaries and expenses	967,000	—	—	-967,000	—
(By transfer)	—	(1,165,000)	(1,165,000)	(+1,165,000)	—
Legal Activities					
Salaries and expenses, general legal activities	457,000	—	—	-457,000	—
(By transfer)	—	(750,000)	(750,000)	(+750,000)	—
Salaries and expenses, Antitrust Division	1,131,000	—	—	-1,131,000	—
(By transfer)	—	(1,131,000)	(1,131,000)	(+1,131,000)	—
Salaries and expenses, U.S. attorneys and marshals	7,293,000	—	—	-7,293,000	—
(By transfer)	—	(7,293,000)	(7,293,000)	(+7,293,000)	—
Total, Legal activities	8,881,000	—	—	-8,881,000	—
Federal Bureau of Investigation					
Salaries and expenses	20,506,000	17,293,000	16,593,000	-3,913,000	-700,000
(By transfer)	—	(3,213,000)	(3,913,000)	(+3,913,000)	(+700,000)
Immigration and Naturalization Service					
Salaries and expenses	6,000,000	6,000,000	6,000,000	—	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	Drug Enforcement Administration					
	Salaries and expenses	700,000	—	—	-700,000	—
	(By transfer)	(572,000)	(1,272,000)	(772,000)	(+200,000)	(-500,000)
	Law Enforcement Assistance Administration					
	Salaries and expenses	1,437,000	—	—	-1,437,000	—
	Total, Department of Justice	38,491,000	23,293,000	22,593,000	-15,898,000	-700,000
	(By transfer)	(572,000)	(14,824,000)	(15,024,000)	(+14,452,000)	(+200,000)
	DEPARTMENT OF LABOR					
	Employment and Training Administration					
	Program administration	676,000	676,000	676,000	—	—
	(Trust fund transfer)	(1,403,000)	(1,403,000)	(1,403,000)	—	—
	Employment Standards Administration					
	Salaries and expenses	6,069,000	—	—	-6,069,000	—
	(Trust fund transfer)	(13,000)	(13,000)	(13,000)	—	—
	Occupational Safety and Health Administration					
	Salaries and expenses	1,810,000	1,810,000	1,810,000	—	—

Mine Safety and Health Administration					
Salaries and expenses	2,730,000	2,480,000	2,480,000	-250,000	---
Bureau of Labor Statistics					
Salaries and expenses	715,000	---	---	-715,000	---
Departmental Management					
Salaries and expenses	2,442,000	2,167,000	2,167,000	-275,000	---
(Trust fund transfer)	(60,000)	(60,000)	(60,000)	---	---
Total, Department of Labor	14,442,000	7,133,000	7,133,000	-7,309,000	---
(Trust fund transfers)	(1,476,000)	(1,476,000)	(1,476,000)	---	---
DEPARTMENT OF STATE					
Administration of Foreign Affairs					
Salaries and expenses	13,460,000	11,460,000	11,460,000	-2,000,000	---
Acquisition, operation, and maintenance of buildings abroad	177,000	177,000	177,000	---	---
Total, Administration of foreign affairs	13,637,000	11,637,000	11,637,000	-2,000,000	---
International Organizations and Conferences					
Missions to international organizations	235,000	235,000	235,000	---	---
International Commissions					
International Boundary and Water Commission, United States and Mexico, salaries and expenses	189,000	189,000	189,000	---	---
American sections, international commissions	65,000	65,000	65,000	---	---
Total, International commissions	254,000	254,000	254,000	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	Other					
	Migration and refugee assistance	$35,000	$35,000	$35,000	—	—
	Total, Department of State	14,161,000	12,161,000	12,161,000	−$2,000,000	—
	DEPARTMENT OF TRANSPORTATION					
	Office of the Secretary					
	Salaries and expenses	843,000	700,000	700,000	−143,000	—
	(By transfer)	(63,331)	(63,331)	(63,331)	—	—
	Coast Guard					
	Operating expenses	24,470,000	22,670,000	22,670,000	−1,800,000	—
	Reserve training	1,680,000	1,600,000	1,600,000	−80,000	—
	Total, Coast Guard	26,150,000	24,270,000	24,270,000	−1,880,000	—
	Federal Aviation Administration					
	Operations	60,000,000	54,000,000	54,000,000	−6,000,000	—
	(By transfer)	—	(5,000,000)	(5,000,000)	(+5,000,000)	—

Operation and maintenance, Metropolitan Washington Airports	630,000	630,000	630,000	—	—
Total, Federal Aviation Administration	60,630,000	54,630,000	54,630,000	-6,000,000	—
Federal Highway Administration					
Motor carrier safety	244,000	220,000	220,000	-24,000	—
Federal-aid highways (trust fund):					
(Increase in limitation)	(4,770,000)	(4,200,000)	(4,200,000)	(-570,000)	—
National Highway Traffic Safety Administration					
Traffic and highway safety	1,000,000	400,000	400,000	-600,000	—
Federal Railroad Administration					
Office of the Administrator	335,000	335,000	335,000	—	—
Railroad safety	570,000	500,000	500,000	-70,000	—
Total, Federal Railroad Administration	905,000	835,000	835,000	-70,000	—
Saint Lawrence Seaway Development Corporation:					
(Increase in limitation)	(32,000)	(32,000)	(32,000)	—	—
Total, Department of Transportation	89,772,000	81,055,000	81,055,000	-8,717,000	—
(Increase in limitations)	(4,802,000)	(4,232,000)	(4,232,000)	(-570,000)	—
DEPARTMENT OF THE TREASURY					
Office of the Secretary:					
Salaries and expenses (by transfer)	(979,000)	(979,000)	(979,000)	—	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	Bureau of Government Financial Operations:					
	Salaries and expenses (by transfer)	($2,289,000)	($2,289,000)	($2,289,000)	—	—
	New York City loan guarantee program (by transfer)	(34,000)	—	—	(−$34,000)	—
	Bureau of Alcohol, Tobacco and Fire Arms:					
	Salaries and expenses (by transfer)	(4,900,000)	(4,900,000)	(4,900,000)	—	—
	United States Customs Service: Salaries and expenses	9,409,000	13,459,000	10,833,000	+1,424,000	−$2,626,000
	Bureau of the Mint:					
	Salaries and expenses (by transfer)	(584,000)	(584,000)	(584,000)	—	—
	Internal Revenue Service:					
	Salaries and expenses	5,727,000	5,727,000	5,727,000	—	—
	Taxpayer service and returns processing	24,133,000	24,133,000	24,133,000	—	—
	Examinations and appeals	20,609,000	20,609,000	20,609,000	—	—
	Investigations and collections	19,369,000	19,369,000	19,369,000	—	—
	Total, Internal Revenue Service	69,838,000	69,838,000	69,838,000	—	—
	United States Secret Service: Salaries and expenses	1,314,000	1,314,000	1,314,000	—	—
	(By transfer)	(3,214,000)	(3,214,000)	(3,214,000)	—	—
	Total, Department of the Treasury	80,561,000	84,611,000	81,985,000	+1,424,000	−2,626,000
	(By transfer)	(12,000,000)	(11,966,000)	(11,966,000)	(−34,000)	—
	ENVIRONMENTAL PROTECTION AGENCY					
	Agency and regional management	2,000,000	—	—	−2,000,000	—
	Research and development	1,800,000	—	—	−1,800,000	—

Abatement and control	2,600,000	---	---	-2,600,000	---
Enforcement	1,700,000	---	---	-1,700,000	---
Total, Environmental Protection Agency	8,100,000	---	---	-8,100,000	---
GENERAL SERVICES ADMINISTRATION					
Federal Buildings Fund:					
Limitations on availability of revenue: (Increase in limitations):					
Real property operations	(9,079,000)	(9,079,000)	(9,079,000)	---	---
Program direction and centralized services	(2,565,000)	(2,565,000)	(2,565,000)	---	---
Total, Federal Buildings Fund	(11,644,000)	(11,644,000)	(11,644,000)	---	---
Personal Property Activities:					
Federal Supply Service, operating expenses	5,116,000	5,116,000	5,116,000	---	---
Records Activities:					
National Archives and Records Service, operating expenses	1,938,000	1,938,000	1,938,000	---	---
Records declassification	90,000	90,000	90,000	---	---
Total, Records activities	2,028,000	2,028,000	2,028,000	---	---
Automated Data and Telecommunications Service:					
Operating expenses	386,000	386,000	386,000	---	---
Federal Property Resources Service:					
Operating expenses	1,279,000	1,279,000	1,279,000	---	---
General activities:					
General management and agency operations:					
Salaries and expenses	732,000	732,000	732,000	---	---
Indian trust accounting	115,000	115,000	115,000	---	---
Administrative and staff support services:					
Salaries and expenses	3,492,000	3,492,000	3,492,000	---	---
Consumer Information Center	26,000	16,000	16,000	-10,000	---
Total, General activities	4,365,000	4,355,000	4,355,000	-10,000	---
Total, General Services Administration	13,174,000	13,164,000	13,164,000	-10,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

H. Doc.	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION					
	Research and program management	$30,969,000	$25,969,000	$25,969,000	-$5,000,000	—
	VETERANS ADMINISTRATION					
	Medical care	74,538,000	50,000,000	40,000,000	-34,538,000	-$10,000,000
	Medical administration and miscellaneous operating expenses	1,266,000	—	—	-1,266,000	—
	General operating expenses	20,620,000	12,620,000	12,620,000	-8,000,000	—
	Construction, minor projects	944,000	944,000	944,000	—	—
	Total, Veterans Administration	97,368,000	63,564,000	53,564,000	-43,804,000	-10,000,000
	OTHER INDEPENDENT AGENCIES					
	Action:					
	Operating expenses, international programs	958,000	958,000	958,000	—	—
	Operating expenses, domestic programs	898,000	798,000	798,000	-100,000	—
	Total, Action	1,856,000	1,756,000	1,756,000	-100,000	—
	Advisory Council on Historic Preservation:					
	Salaries and expenses	34,000	26,000	26,000	-8,000	—
96-132	American Battle Monuments Commission:					
	Salaries and expenses	1,185,000	873,000	1,185,000	—	+312,000

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Arms Control and Disarmament Agency: Arms control and disarmament activities	400,000	400,000	400,000	—	—
Civil Aeronautics Board: Salaries and expenses	694,000	694,000	694,000	—	—
Commission on Civil Rights: Salaries and expenses	341,000	100,000	100,000	-241,000	—
Commodity Futures Trading Commission: Salaries and expenses	532,000	532,000	532,000	—	—
Consumer Product Safety Commission: Salaries and expenses	1,300,000	750,000	750,000	-550,000	—
Equal Employment Opportunity Commission: Salaries and expenses	3,827,000	—	—	-3,827,000	—
Export-Import Bank of the United States: (Increase in limitation)	(225,000)	(175,000)	(175,000)	(-50,000)	—
Farm Credit Administration: Revolving fund for administrative expenses: (Increase in limitation)	(350,000)	(350,000)	(350,000)	—	—
Federal Election Commission: Salaries and expenses	293,000	293,000	293,000	—	—
Federal Emergency Management Agency:					
Emergency planning, preparedness, and mobilization	2,285,000	1,885,000	1,885,000	-400,000	—
Hazard mitigation and disaster assistance	1,255,000	635,000	635,000	-620,000	—
Total, Federal Emergency Management Agency	3,540,000	2,520,000	2,520,000	-1,020,000	—
Federal Home Loan Bank Board: (Increase in limitations):					
Limitation on administrative expenses	(616,000)	(200,000)	(200,000)	(-416,000)	—
Limitation on nonadministrative expenses	(1,161,000)	(700,000)	(700,000)	(-461,000)	—
Federal Savings and Loan Insurance Corporation: Limitation on administrative expenses: (Increase in limitation)	(35,000)	—	—	(-35,000)	—
Federal Labor Relations Authority: Salaries and expenses	429,000	429,000	429,000	—	—
Federal Maritime Commission: Salaries and expenses	330,000	230,000	200,000	-130,000	-30,000
Federal Mediation and Conciliation Service: Salaries and expenses	528,000	528,000	528,000	—	—
Federal Trade Commission: Salaries and expenses	2,000,000	1,750,000	550,000	-1,450,000	-1,200,000
Intergovernmental agencies:					
Advisory Commission on Intergovernmental Relations: Salaries and expenses	39,000	39,000	39,000	—	—
Appalachian Regional Commission: Salaries and expenses (by transfer)	(77,000)	(77,000)	(77,000)	—	—

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

[Amounts in dollars]

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	House bill
Delaware River Basin Commission:					
Salaries and expenses	$2,000	$2,000	$2,000	—	—
Susquehanna River Basin Commission:					
Salaries and expenses	2,000	2,000	2,000	—	—
Total, Intergovernmental agencies	43,000	43,000	43,000	—	—
(By transfer)	(77,000)	(77,000)	(77,000)	—	—
International Communication Agency:					
Salaries and expenses	6,038,000	5,938,000	5,938,000	-$100,000	—
International Trade Commission: Salaries and expenses	482,000	300,000	300,000	-182,000	—
Interstate Commerce Commission: Salaries and expenses	2,750,000	2,475,000	2,475,000	-275,000	—
Merit Systems Protection Board:					
Salaries and expenses	378,000	378,000	378,000	—	—
(Increase in limitation)	(9,000)	(9,000)	(9,000)	—	—
Office of Special Counsel	14,000	14,000	14,000	—	—
Total, Merit Systems Protection Board	392,000	392,000	392,000	—	—
National Capital Planning Commission:					
Salaries and expenses	74,000	56,000	56,000	-18,000	—
National Commission on Libraries and Information Science: Salaries and expenses	12,000	12,000	12,000	—	—
National Foundation on the Arts and the Humanities:					
National Endowment for the Arts: Salaries and expenses	205,000	150,000	150,000	-55,000	—
National Endowment for the Humanities: Salaries and expenses	247,000	185,000	185,000	-62,000	—

National Labor Relations Board: Salaries and expenses	2,545,000	2,295,000	2,295,000	-250,000	—
National Mediation Board: Salaries and expenses	64,000	64,000	64,000	—	—
National Science Foundation:					
Research and related activities	625,000	—	—	-625,000	—
National Transportation Safety Board:					
Salaries and expenses	500,000	480,000	480,000	-20,000	—
Nuclear Regulatory Commission: Salaries and expenses	4,300,000	4,300,000	4,300,000	—	—
Office of Personnel Management: Salaries and expenses	4,248,000	4,248,000	4,248,000	—	—
(Increase in limitation)	(1,164,000)	(1,164,000)	(1,164,000)	—	—
Pennsylvania Avenue Development Corporation:					
Salaries and expenses	39,000	29,000	29,000	-10,000	—
Railroad Retirement Board: (Increase in limitation)	(1,386,000)	(1,386,000)	(1,386,000)	—	—
Renegotiation Board: Salaries and expenses	137,000	—	—	-137,000	—
Securities and Exchange Commission:					
Salaries and expenses	2,450,000	2,450,000	2,450,000	—	—
Selective Service System: Salaries and expenses	306,000	185,000	185,000	-121,000	—
Smithsonian Institution:					
Salaries and expenses	2,316,000	1,700,000	1,700,000	-616,000	—
Science Information Exchange	86,000	63,000	63,000	-21,000	—
Salaries and expenses, National Gallery of Art	317,000	240,000	—	-317,000	-$240,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	28,000	21,000	21,000	-7,000	—
Total, Smithsonian Institution	2,745,000	2,024,000	1,784,000	-961,000	-240,000
United States Tax Court: Salaries and expenses	88,000	88,000	88,000	—	—
Total, title II - Increased Pay Costs:					
New budget (obligational) authority	2,591,408,300	2,360,772,100	2,412,228,100	-179,180,200	+51,456,000
(By transfer)	(28,379,331)	(40,231,331)	(36,831,331)	(+8,452,000)	(-3,400,000)
(Trust fund transfer)	(5,276,000)	(5,276,000)	(5,276,000)	—	—
(Increase in limitations)	(83,058,000)	(47,456,000)	(47,456,000)	(-35,602,000)	—
(Release of Sec. 311 funds and transfers)	—	(13,445,200)	(13,841,200)	(+13,841,200)	(+396,000)

TITLE III

GENERAL PROVISIONS

Title III of the bill contains two general provisions.

Section 301 carries the usual prohibition against the obligation of funds provided in the bill beyond the current fiscal year as follows:

Sec. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 302 is a routine provision associated with the many pay increase appropriations contained in the bill which will, when added to the amounts provided in regular appropriation acts, increase the total approved to an amount authorized either for direct accounts or limitations, as follows:

Sec. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1979, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Sec. 303 is a routine provision to provide authority to pay Pages of the Senate and House of Representatives during the August recess and is identical to provisions that have been included in previous appropriations acts under similar circumstances. The enactment of this provision does not require any additional funds.

Sec. 303. The provisions of section 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b-1), shall not apply to the pay of pages of the Senate and House of Representatives during the period when the Senate and/or the House of Representatives adjourns or recesses on or after the first of August for a period of at least thirty days but not more than forty-five days, such pay may continue until the end of such period of adjournment or recess.

BUDGETARY IMPACT OF H.R. 4289[1]

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the remaining Committee allocation from the Third Concurrent Resolution for 1979: Committee on Appropriations	$12,914	$13,008	$8,399	[5] $8,964
II. Summary of functional category of 1979 budget amounts recommended in the bill:				
050—National defense		3,973		2,940
150—International affairs		973		[3] −161
250—General science, space, and technology		206		141
270—Energy		38		31
300—Natural resources and environment		472		270
350—Agriculture		28		[2] 26
370—Commerce and housing credit		26		[2] 24
400—Transportation		529		[2] 515
450—Community and regional development		1,272		820
500—Education, training, employment, and social services		617		288
550—Health		643		609
600—Income security		2,052		[2] 1,582
700—Veterans benefits and services		1,547		1,251
750—Administration of justice		75		60
800—General government		518		[3] 529
850—General purpose fiscal assistance		39		39
900—Interest				
III. Financial assistance to State and local governments for 1979 in the bill		1,154		935
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979				[4] 8,787
1980				2,563
1981				1,014
1982				166
1983				18
Future year				

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[1] Prepared by the Congressional Budget Office pursuant to sec. 308a, Public Law 93-344.

[2] Includes outlays from prior year budget authority.

[3] Includes $370,000,000 for guarantees under the Foreign Military Credit Sales and $331,000,000 for food stamps which are not estimated to outlay.

[4] Excludes outlays from prior year budget authority.

[5] The Committee notes that CBO has estimted outlays resulting from the supplemental appropriation in this bill for food stamps at $658,000,000. The Committee has included the CBO estimate, although it believes that, should the full amount of budget authority provided in the bill actually be obligated, outlays will more likely be on the order of $900,000,000 in fiscal year 1979.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–225

SECTION 302(b) CONGRESSIONAL BUDGET—FOREIGN RELATIONS

REPORT

OF THE

COMMITTEE ON FOREIGN RELATIONS

PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 19 (legislative day, MAY 21), 1979.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
45-010 O WASHINGTON : 1979

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6th Congress } SENATE { Report
1st Session } { No. 96–225

SECTION 302(b) CONGRESSIONAL BUDGET–FOREIGN RELATIONS

June 19 (legislative day, May 21), 1979.—Ordered to be printed

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Mr. Church, from the Committee on Foreign Relations, submitted the following

REPORT

CONGRESSIONAL BUDGET ACT REQUIREMENTS

The Committee on Foreign Relations submits the following report in compliance with section 302(b) of the Congressional Budget Act of 1974.

Section 302(b) of the Budget Act requires, as soon as practicable after the conference report on the first concurrent resolution on the budget or any subsequent resolution is agreed to, the committee to submit to the Senate a report as to how it would subdivide its allocation among subcommittees or programs. Such allocation must also be subdivided between uncontrollable and controllable amounts. Since in the case of the Committee on Foreign Relations, all legislative authority is vested in the full committee, the allocations of budget authority and outlays will be reflected as full committee items.

AMOUNTS ALLOCATED TO THE COMMITTEE ON FOREIGN RELATIONS

The conference report on the first concurrent resolution on the budget for fiscal year 1980 (H. Con. Res. 107) allocates $11,084,104,000 in budget authority and $8,688,832,000 in outlays to the Committee on Foreign Affairs. The conference report also revises the second concurrent resolution on the budget for fiscal year 1979 by allocating $7,238,738,000 in budget authority and $8,689,857,000 in outlays to the committee.

The amounts of total budget authority and outlays allocated to the committee for fiscal years 1979 and 1980, respectively, are distributed by budget functions in the conference report as follows:

Budget function	Budget authority	Outlays
Fiscal year 1979:		
International affairs (150)	$7,005,593,000	$8,205,888,00
Commerce and housing credit (370)	4,800,000	6,000,00
Income security (600)	228,345,000	113,028,00
Total	7,238,738,000	8,324,916,00
Fiscal year 1980:		
International affairs (150)	10,831,481,000	8,555,910,00
Commerce and housing credits (370)	5,179,000	4,995,00
Income security (600)	247,445,000	127,927,00
Total	11,084,104,000	8,688,832,00

EXPLANATION OF UNCONTROLLABLE[1] AMOUNTS ALLOCATED TO COMMITTEE ON FOREIGN RELATIONS

In accordance with section 302(b) of the Congressional Budget Act of 1974, the Committee on Foreign Relations has subdivided, by category, the budget authority and outlay amounts allocated to it under the first concurrent resolution on the budget for fiscal year 1980 and the revised second concurrent resolution on the budget for fiscal year 1979, as follows:

[Dollars in thousands]

	Budget authority	Outlays
FISCAL YEAR 1979 ALLOCATION		
Committee on Foreign Relations:		
International affairs (150):		
Advances, foreign military sales	$6,900,000	$8,100,0
Liquidation, foreign military sales fund	0	−2,0
Technical assistance trust fund	4,000	4,0
Peace Corps trust fund	245	26
Payment to Foreign Service retirement fund	97,800	97,8
International Center, Washington, D.C.	2,346	2,3
Department of State trust fund	740	74
Gifts and bequests, National Commission on Educational, Scientific and Cultural Cooperation	25	2
Department of Transportation trust fund	106	2,4
International Communications Agency trust fund	331	33
Subtotal	7,005,593	8,205,8
Commerce and housing credit (370): Department of Commerce trust fund	4,800	6,0
Income security (600): Foreign Service retirement and disability fund	228,345	113,0
Total allocation to Senate Foreign Relations Committee	7,238,738	8,324,9

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[1] All of the items allocated to the Committee on Foreign Relations are trust funds or other permanent budget authority items which do not require periodic reauthorization. Under the terms of the Congressional Budget Act of 1974, such amounts are "uncontrollable."

[Dollars in thousands]

	Budget authority	Outlays
FISCAL YEAR 1980 ALLOCATION		
Committee on Foreign Relations:		
International affairs (150):		
Advances, foreign military sales	$10,700,000	$8,426,000
Liquidation, foreign military sales fund	0	−2,000
Technical assistance trust fund	15,000	15,000
Peace Corps trust fund	483	483
Payment to Foreign Service retirement fund	112,800	112,800
International Center, Washington, D.C.	200	508
Department of State trust fund	950	950
Gifts and bequests, National Commission on Educational, Scientific and Cultural Cooperation	50	45
Department of Transportation trust fund	1,774	1,900
International Communications Agency trust fund	224	224
Subtotal	10,831,481	8,555,910
Commerce and housing credit (370): Department of Commerce trust fund	5,179	4,995
Income security (600): Foreign Service retirement and disability fund	247,445	127,927
Total allocation to Senate Foreign Relations Committee	11,084,104	8,688,832

PROJECTIONS OF UNCONTROLLABLE AMOUNTS ALLOCATED TO THE COMMITTEE ON FOREIGN RELATIONS FOR FISCAL YEARS 1981, 1982, AND 1983

The Committee on Foreign Relations has projected, by category, the budget authority and outlay amounts for fiscal years 1981, 1982, and 1983. The Committee emphasizes that these are tentative projections. The one item which may have the greatest fluctuation and one which is the most difficult to accurately predict is the advances for foreign military sales. The projections for fiscal years 1981, 1982, and 1983 are as follows:

[Dollars in thousands]

	Budget authority	Outlays
FISCAL YEAR 1981 ALLOCATION		
Committee on Foreign Relations:		
International affairs (150):		
Advances, foreign military sales	$11,700,000	$9,300,000
Liquidation, foreign military sales fund	0	−1,000
Technical assistance trust fund	20,000	20,000
Peace Corps trust fund	483	483
Payment to Foreign Service retirement fund	115,600	115,600
International Center, Washington, D.C.	220	200
Department of State trust fund	1,018	578
Gifts and bequests, National Commission on Educational, Scientific and Cultural Cooperation	54	33
Department of Transportation trust fund	3,425	3,425
International Communications Agency trust fund	240	249
Subtotal	11,841,020	9,439,568
Commerce and housing credit (370): Department of Commerce trust fund	5,549	5,549
Income security (600): Foreign Service retirement and disability fund	254,000	142,000
Total allocation to Senate Foreign Relations Committee	12,100,569	9,586,937

[Dollars in thousands]

	Budget authority	Outlays
FISCAL YEAR 1982 ALLOCATION		
Committee on Foreign Relations:		
International affairs (150):		
Advances, foreign military sales	$12,600,000	$10,200,000
Liquidation, foreign military sales fund	0	0
Technical assistance trust fund	20,000	20,000
Peace Corps trust fund	483	483
Payment to Foreign Service retirement fund	118,500	118,500
International Center, Washington, D.C.	1,000	1,000
Department of State trust fund	1,086	886
Gifts and bequests, National Commission on Educational, Scientific and Cultural Cooperation	57	42
Department of Transportation trust fund	2,516	2,516
International Communications Agency trust fund	256	264
Subtotal	12,743,898	10,343,6[illegible]
Commerce and housing credit (370): Department of Commerce trust fund	5,923	5,741
Income security (600): Foreign Service retirement and disability fund	261,000	156,000
Total allocation to Senate Foreign Relations Committee	13,010,821	10,506,4[illegible]

[Dollars in thousands]

	Budget authority	Outlays
FISCAL YEAR 1983 ALLOCATION		
Committee on Foreign Relations:		
International affairs (150):		
Advances, foreign military sales	$13,600,000	$11,000,000
Liquidation, foreign military sales fund	0	0
Technical assistance trust fund	20,000	20,000
Peace Corps trust fund	483	483
Payment to Foreign Service retirement fund	121,600	121,600
International Center, Washington, D.C.	3,000	3,000
Department of State trust fund	1,158	1,[illegible]
Gifts and bequests, National Commission on Educational, Scientific and Cultural Cooperation	61	44
Department of Transportation trust fund	1,925	1,925
International Communications Agency trust fund	273	280
Subtotal	13,748,500	11,148,3[illegible]
Commerce and housing credit (370): Department of Commerce trust fund	6,312	6,123
Income security (600): Foreign Service retirement and disability fund	267,000	168,000
Total allocation to Senate Foreign Relations Committee	14,021,812	11,322,4[illegible]

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Calendar No. 240

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–226

REQUIRING REINSTITUTION OF REGISTRATION FOR CERTAIN PERSONS UNDER THE MILITARY SELECTIVE SERVICE ACT, AND FOR OTHER PURPOSES

JUNE 19 (legislative day, MAY 21), 1979.—Ordered to be printed

Mr. NUNN, from the Committee on Armed Services, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 109]

The Committee on Armed Services, to which was referred the bill (S. 109) to require the reinstitution of procedures for the registration of certain persons under the Military Selective Service Act, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute to the text of the bill and an amendment to the title of the bill and recommends that the bill as amended do pass.

COMMITTEE AMENDMENT IN THE FORM OF A SUBSTITUTE

The committee amended S. 109 by striking all after the enacting clause and substituting a new bill reflecting changes as recommended by the committee.

PURPOSE OF THE BILL

The bill reported by the committee would require the President to commence registration of male persons by January 2, 1980. After registration procedures have been reinstituted the President may suspend registration for the purpose of revising existing procedures or instituting new procedures, but only for a period of 90 days or less and no more than once in any one-year period.

The bill provides only for simple registration. All classification procedures would be suspended until January 1, 1981, unless the President determines it is in the national interest to conduct classification before that date.

The bill also requires the President to report, by July 1, 1980, to the Congress on categories for deferment and exemption, procedures to be followed for registration and classification, and any other proposed changes in the act. This report is to contain a certification that the Selective Service Act, including any proposed changes, is equitable and can meet military manpower needs.

The bill would also assign the supervision of manpower mobilization planning in the Department of Defense to the Undersecretary of Defense for Policy and require an assessment of manpower mobilization capabilities in the annual Manpower Requirements Report.

Committee Consideration

The Subcommittee on Manpower and Personnel held specific hearings on S. 109 and a similar bill (S. 226) on March 13 and May 21, 1979 and included testimony on the need for registration during hearings on overall manpower requirements on February 22, March 20 and 27, April 4, 9 and 10, 1979. It heard from a variety of witnesses representing the military and civilian leadership of the Armed Forces, a cross-section of representatives of military associations and from other individuals and organizations. In addition, the subcommittee as well as the full Armed Services Committee, has reviewed the issue of registration in other hearings this year and in the past. A summary of this testimony appears later in this report.

Basis for Committee Action

MOBILIZATION PROBLEMS

Testimony presented to the committee indicates that manpower problems in the event of mobilization are so severe that the Military Services are not now capable of meeting our national emergency requirements in terms of manpower. The Military Services are encountering increasing difficulty in recruiting sufficient manpower to meet active duty levels. The Selective Reserve—the units that would augment active military forces in a mobilization—are over 30,000 below authorized strength. According to testimony, the Individual Ready Reserve, the primary force of trained individuals for replacement and augmentation in emergencies, is 500,000 below mobilization levels for the Army alone. There are critical shortages of doctors and certain other skilled personnel in both active and reserve components.

If an emergency occurred, the Army indicates it would not have sufficient combat manpower in combat units. It would pull people out of units scheduled to deploy at later dates and use those people for individual augmentation and replacement earlier. Even so, according to Army Chief of Staff General Rogers: "We only have sufficient in there for a very small percentage of combat arms requirement. They would only last for "X" days but "X" is not a very large number of days." The Army would also plan to use personnel who were in inactive status but who had not yet completed their 6 years military obligation. This would still not provide sufficient manpower, so the Department of Defense then plans to conscript veterans who have no military obligation and who do not expect to be recalled. Veterans under age 30 who have no remaining military obligation are those who were drafted or enlisted between 1968 and 1973. The committee has previously recommended against such an inequitable policy of conscripting Vietnam veterans before those who have never served.

The military may not be able to insure adequate medical support in a major conflict. The Air Force early in any war can meet only 15 percent of its stated theater requirement for general surgeons and 9 percent of its stated orthopedic surgeon requirement. The Navy could meet only 27 percent of its anesthesiology requirement and 50 percent of its general surgery requirement. Grave shortages also exist for Army surgeons and nurses. There would be substantial shortages of enlisted medical manpower, a shortage of hospital beds in theater of up to 35 percent, and a shortage of aeromedical evacuation assets.

Combat manpower would fall short by substantial amounts and these shortages would be especially acute in the most critical, large combat skills: infantry, armor and chemical specialists. The committee hears much about the need for more tanks and equipment but not as much about the lack of people to operate the weapons.

In addition, testimony is unanimous that the Selective Service System cannot meet the Department of Defense stated requirements for the delivery of inductees in mobilization. It should be noted that Department of Defense plans have never included reliance on an All-Volunteer Force in case of mobilization, and the delivery of inductees under a military draft is an important part of our mobilization capabilities. In a report by the Department of Defense on the All-Volunteer Force on December 31, 1978, the Department states:

> If deterrence fails and a major conventional conflict continues beyond the initial engagements, the ability to rapidly mobilize, train and arm these previously untrained personnel may be the difference between victory and defeat or between staying conventional or being forced to shift to the awful spector of international nuclear war.

The current Department of Defense stated requirements for the delivery of personnel are for the first inductees by 30 days following the decision to mobilize (M day), 100,000 inductees by M day +60, and 650,000 inductees by M day +180. Currently the Selective Service System is capable of delivering the first inductee 3–4 months after M day; less than 60 percent of induction requirements would be met by 6 months after M day.

The implications of the current inadequate capabilities of the Selective Service are most serious.

According to General Rogers:

> Under the current Selective Service System capabilities, providing the first inductees at M+110 days to start training, newly trained soldiers would not be available to fill and sustain deployed Army units until 7 months after mobilization. In view of the Army's current pretrained manpower shortfall of approximately 500,000 to meet the requirements for the defense of NATO in a major war that starts with little

> warning, this is a very dangerous situation. Although improving the Selective Service System capability to deliver inductees sooner by establishing peacetime registration will not eliminate the Army's total mobilization manpower deficit or even influence the manpower shortfall in the first 90 days, it will shorten the time of availability to the deployed units of the first newly trained inductees from M+210 to M+110 days.

According to Chief of Naval Operations, Admiral Hayward:

> Any inability of the Selective Service System to ensure the timely flow of forces to the war places the outcome of our strategy in serious question, and our national security in jeopardy.

According to Air Force Chief of Staff, General Allen:

> The United States needs to have, in being, a system which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist. The national security risk associated with a weak Selective Service System is significant.

Although there is unanimous agreement that the current capabilities of the Selective Service System are inadequate, there is no such agreement on the appropriate remedy. There are three alternatives: Improved planning by the Selective Service System; registration in peacetime or in an emergency by use of Social Security and Internal Revenue Service records; peacetime registration. Before discussing the committee recommendation on peacetime registration, the other two alternatives are discussed below.

IMPROVED PLANNING BY SELECTIVE SERVICE SYSTEM

The President has submitted a fiscal year 1979 Selective Service System supplemental budget request of $1.7 million and a fiscal year 1980 request of $9.8 million to improve computer processing capabilities and hire 50 additional people. According to the Director of Selective Service: "With the additional money and personnel we will be able to develop the capability to start the delivery of inductees within 30 days."

According to this ambitious plan, once a decision to mobilize had been made, the President would announce over television that all 19, 20 and 21-year-old males (6 million men) would be required to register at thousands of election sites around the country in ten days.

The 50 States, the District of Columbia and other U.S. territories would be expected to plan for and be able to execute such a program. If any State could not meet the requirements, the entire process could be delayed since induction should be based on the pool of all who were required to register. Assuming registration does take place on the tenth day following mobilization, then the election boards would forward data for the primary age group (those who turn 20 in the year) to ten regional sites where Selective Service personnel would place 40,000 records a day into computers at the station, thereby completing the processing of the primary age group in 5 days (that is, by

M+15). These computers, and the necessary software and trained personnel, are not now in place. The Selective Service System is studying its equipment needs. Procurement and development would follow. Even if the feasibility studies are positive and the equipment is in place, failure at one site could again delay the entire process. According to the plan, this processing of information would be followed by a lottery to assign random number sequences by birth date on the next day. Three days later 200,000 mailgrams would be sent ordering registrants to report to the Armed Forces Entrance and Examining Station within ten days. Assuming next day delivery, the mailgrams would be delivered at M day+20 and inductions could begin at M+30.

This tight schedule and many assumptions about so many different operations at so many different locations lead to great skepticism about its feasibility. Personnel would not have previous experience in any part of this process. Challenges and confusion about the entire process—registration, classification, examination and induction—would probably be great. The media blitz necessary to start the process itself could be considered as a dangerous act in time of international tension and thus be delayed. Trying to implement such a complex new system during a period when the Nation is trying to mobilize rapidly convinces many that such a plan could not work.

In addition, the current shortages of mobilization manpower may require a faster delivery capability than this plan would yield. Current Department of Defense requirements for inductees, and especially the statement for no inductees during the first 30 days, are based on two assumptions not directly related to mobilization requirements. As previously mentioned, part of the administration's plan is that legislation will be enacted to recall as many as 100,000 veterans with no military obligation at all to active duty first and that some brief refresher training will be necessary. If veterans are not recalled, however, the need for inductees would be greater. Second, the stated requirements for induction are based to a great extent on the capacity of Army training facilities. Recent information indicates that the actual Army training capability has been substantially underestimated.

As a result of the serious manpower shortages identified in recent mobilization exercises, the Army has reassessed planning and programing options to expand training base capacity. Instead of being able to train 36,000 trainees in the first month following mobilization, and 66,000 in the second month, the Army now has identified a potential training base capacity of 133,000 in the first month following mobilization and over 300,000 in the second month. This means that the previous constraint in the statement of requirements for the Selective Service System no longer applies and that more inductees could be accepted earlier. According to General Rogers, "The required delivery rates of the Selective Service System need to be reexamined and adjusted to meet the training capacities of all the Services. It is necessary to plan to keep the military training establishments filled to capacity in any situation requiring full mobilization." Even if the planned improvements in the Selective Service System could be achieved, the System as planned would not be able to take advantage of training base capacity and could not meet more stringent delivery requirements. As a result, manpower shortages in combat units could continue longer than necessary.

Registration in Peacetime or in an Emergency Using Social Security or Internal Revenue Service Records

Another alternative to peacetime registration is the use of Social Security and Internal Revenue Service computerized records. According to this proposal, Social Security and IRS would merge their data files and furnish a list of registrants and other information to the Selective Service System. This process would require amendments to current privacy laws which prohibit release of this information. Some witnesses before the committee who would oppose such revisions of privacy laws in peacetime do support such revisions at the time of an emergency.

The committee is very concerned about such privacy act revisions. Further, since everyone does not have a Social Security number or file a tax return, registration would not be universal. The Congressional Budget Office estimates that at least 15 percent of the relevant age group would not be included. Such records would not necessarily contain current addresses on those who were included. In addition, such a procedure would change the current obligation for individuals to register to a Government function to register people. Equity and enforcement problems would be severe. The result would be inequitable, providing an unintended exemption for those without a Social Security number or tax return. Since everyone in the relevant age group would not be required to register, would the Selective Service System have additional enforcement problems in enforcing compliance with requirements to keep local boards informed of changes in address or in ordering those who were registered for examination or induction?

Peacetime Registration

The committee recommends that peacetime registration be reinstituted. This process will help assure that the Department of Defense mobilization requirements for inductees can be met. With ongoing registration, the Selective Service System will be able to begin inductions in 30 days, which it cannot do now and is unlikely to be able to do under other alternatives. This means trained manpower would enter units about 3 months earlier than under current capabilities.

In addition, peacetime registration would enable the Selective Service System to meet more stringent delivery requirements and begin induction in 12 days. When the military knows that it faces most severe shortages in combat units in the event of mobilization, and given the reassessment and expansion of Army training base capability after the recent mobilization exercises, we should plan to meet shortages as soon as possible.

Peacetime registration will not resolve the serious combat manpower shortages that can be expected in the early stages of mobilization and the committee remains very concerned about the grave shortages in combat and medical personnel indicated by recent mobilization exercises and studies. These shortages are in pretrained manpower available at mobilization, primarily the Individual Ready Reserve. Other steps are needed now to increase the number of pretrained individuals. Inductees will have to receive training before being assigned to units, but peacetime registration assures that these individuals can be assigned 3 months earlier than under present conditions and will enhance the security of the Nation.

Recommendation Does Not Include a Return to the Draft

The committee recommendation does not include a return to involuntary induction for military service. There is no authority in law for induction and specific legislation would have to be enacted before any inductions could occur.

In addition to enhancing the capability to meet mobilization requirements, some witnesses believe the reinstitution of registration will enhance the viability of a volunteer force by reminding citizens of their basic obligation, providing useful recruiting information to recruiters and inducing reserve enlistments. Certainly the recommendations of the President's Commission on the All-Volunteer Force included an effective standby draft. The committee has expressed its concerns about the current policies of the All-Volunteer Force many times in the past. It is clear that registration is needed and that this bill does not permit conscription. Whether further changes will be necessary must be addressed based on a continuing assessment of manpower requirements, including the effects of registration.

Mobilization Responsibilities

The serious mobilization problems discussed above and the results of current mobilization exercises clearly indicate that more management attention should be directed to this area. The committee recommends that the supervision of manpower mobilization planning be specifically assigned to the Undersecretary of Defense for Policy and that an annual assessment of manpower mobilization capabilities be reported to Congress.

Suspension of Classification

The committee recommendation suspends classification and examining procedures. The bill as recommended thus provides for simple registration only. Classification and examining procedures would be suspended until January 1, 1981, unless the President determines it is in the national interest to begin classification earlier.

Registration provides the means for early delivery of inductees in an emergency. Classification procedures would add efficiency to processing since those who would not be inducted would not have to be processed or examined at the same time as those being inducted. However, the committee believes that the categories and standards for exemption and deferment and the procedures under current law must be completely reviewed. The Selective Service System should be equitable and fair, and the committee feels that deferment and exemption categories should be limited to conscientious objectors, those morally, mentally and physically unfit and only such other categories that the President believes are necessary in the national interest.

Therefore, in addition to suspending classification, the committee bill includes a requirement for the President to submit a written report to Congress not later than July 1, 1980, containing his recommendations

(1) for revision of the categories and standards for deferment and exemption of persons under the Military Selective Service Act, (2) for the revision of the procedures to be followed for registration and classification, and (3) for other changes he determines necessary to improve the fairness and effectiveness of such act. The President shall include in such report a certification to the effect that the Military Selective Service Act, including any changes recommended by him, is, in his judgment, equitable and will provide the means necessary to meet effectively the military manpower needs of the United States.

RESPONSIBILITY OF CONGRESS

The President has authority in current law to conduct registration and classification. On March 29, 1975, President Ford signed Proclamation 4360 terminating registration under then-existing procedures. According to the proclamation:

> In order to evaluate an annual registration system, existing procedures are being terminated and will be replaced by new procedures which will provide for periodic registration.

Although the intent expressed in the proclamation was to study a different approach rather than to permanently terminate registration, neither President Ford nor President Carter reinstituted registration.

In reaching its conclusion to recommend this bill reinstituting a simple registration system, the committee is ever mindful of the special responsibilities of the Congress under article I, section 8 of the Constitution "to raise and support Armies", to "provide and maintain a Navy" and "to make Rules for the Government and Regulation of the land and naval Forces". The committee makes its recommendation on the bill after careful weighing of the arguments and based solely upon its considered judgment as to the military policies that best serve the national security interest of our country.

This consideration also leads the committee to recommend a continuation of the registration system in current law that does not include women.

CONTINUATION OF PRESENT LAW AND POLICY REGARDING WOMEN

The committee recommendation would continue the provisions of present law which require that only men be registered under the Military Selective Service Act. The committee recommends that this policy be continued and that women not be included in the requirement for registration. The committee feels strongly that it is not in the best interest of our national defense to register women for the Military Selective Service Act, which would provide needed military personnel upon mobilization or in the event of a peacetime draft for the armed forces.

The committee is aware of the significant contribution now being made to our armed forces by women in uniform. The number of women in the military has increased significantly in the past few years and is expected to continue to increase.

History gives examples of women who fought alone and with men during past periods of strife. Women have defended themselves gainst attack and have been inadvertently drawn into combat activties in defense of their country. Although such examples exist, hroughout history women have not regularly participated in combat nd no society has ever relied on conscription of women primarily for ombat roles. Current law and policy exclude women from being asigned to combat in our military forces, and the committee reaffirms his policy. The policy precluding the use of women in combat is, in he committee's view, the most important reason for not including omen in a registration system.

Women now volunteer for military service and are assigned to most ilitary specialties. Of all the various kinds of enlisted skills in the rmy, only 6 percent are closed to women as a result of the exclusion of omen from combat. But these include infantry specialists, armor speialists, combat engineers and positions in field artillery and air deense. It is in these skills, and more specifically in the many positions eeded to be filled in infantry and armor skills, where mobilization anpower is so severely short. It is also these skills that are most ifficult to recruit for during peacetime. Even in peacetime, although nly 6 percent of Army enlisted skills are closed to women, fully 42 ercent of all *billets* filled by enlisted personnel in the Army are in ecialities, skills or units not available to women. Consequently, there no need to draft large numbers of women in event of mobilization for the skills that the Army has difficulty in recruiting for in eacetime.

In addition, there are military reasons that preclude very large umbers of women from serving. Military flexibility requires that commander be able to move units or ships quickly. Units or ships not cated at the front or not previously scheduled for the front neverthess must be able to move into action if necessary. In peace and war, me rotation of personnel is necessary. We should not divide the miliry into two groups—one in permanent combat and one in permanent pport. Some non-combat positions must be available to which comt troops can return for duty before being redeployed.

The committee also feels that any actual induction under the Miliry Selective Service Act should be performed equitably based on ndom selection, and as efficiently as possible. But this principle eates additional mobilization problems if women were included. eeting a large requirement will not be easy in any event, and the mmittee feels that inflating the total for positions not directly eded for combat would impede the mobilization process. Processing d training would be needlessly burdened by women recruits who uld not be used in combat. If more people can be processed, they ould also be directed to the combat positions which need to be filled.

Other administrative problems such as housing and different treatent with regard to dependency, hardship and physical standards uld also exist but are less important than military reasons.

Registering women for assignment to combat or assigning women to mbat positions in peacetime then would leave the actual performance sexually mixed units as an experiment to be conducted in war with known risk—a risk that the committee finds militarily unwarranted d dangerous. Moreover, the committee feels that any attempt to ign women to combat positions could affect the national resolve at e time of mobilization, a time of great strain on all aspects of the tion's resources.

SUMMARIES OF TESTIMONY ON SELECTIVE SERVICE REGISTRATION AND CLASSIFICATION

Harold Brown, Secretary of Defense

Secretary Brown, appearing before the Armed Services Committee on January 25, 1979, summarized his position on the need to upgrade Selective Service capabilities as follows:

> I have a recommendation from the Chairman of the Joint Chiefs of Staff about registration and a less clearcut conclusion about classification. I think that Selective Service is not in a situation now where it could meet our requirements should there be a major conflict. It would take too long to register, classify, process, conscript, and so on. For that reason, I believe that we ought to bring Selective Service up to a higher degree of readiness.
>
> Now, a lot of that can be done just by appropriating more money for it, and the administration is asking for more funding for this purpose without changing anything else. Beyond that, I think we should examine and I think we may well want to proceed with either an updating of records, use of existing records—I think that probably would take legislation, because of the privacy laws—or registration.
>
> I am not prepared to say yet which of those makes more sense and how much it would get us. I think during the course of this year we can come to a conclusion on that. I would not favor instituting conscription at this time.

General David C. Jones, Chairman of the Joint Chiefs of Staff

General Jones, appearing before the Armed Services Committee on January 25, 1979, acknowledging the heavy reliance that would be placed on Reserve components in the event of a mobilization and the existing shortages in those components stated:

> This manpower shortage is further compounded by the lack of a responsive Selective Service System to meet the mobilization manpower needs of the Services. Since registration is one of the most crucial aspects of manpower mobilization, the establishment of a mechanism which provides for peacetime registration is needed now. Although some initial screening is envisaged, the extent of physical and mental testing requires further study. While registration and initial screening would not eliminate the pretrained-manpower shortfall during the early stages of mobilization, it would decrease significantly the total shortfall.

On the subject of the future of the All-Volunteer Force, General Jones testified:

> We are not ready to give up on the All-Volunteer Force as yet but have recommended registration and something beyond that in the way of screening. We believe the subject needs serious study and, if the trend lines continue, we won't foreclose some sort of national service, particularly for the Reserve components.

The whole problem needs very serious attention by this country.

Charles W. Duncan, Jr., Deputy Secretary of Defense

Deputy Secretary Duncan, testifying before the Armed Services Committee on January 30, 1979, said the Department of Defense is,

> * * * not satisfied with the capability of the Selective Service System to support our wartime manpower needs. The President's budget includes funds to improve the readiness of this system. Depending on how much this improved readiness buys us in assured responsiveness to wartime manpower needs, registration or some form of improved recordkeeping about draft age youth may be appropriate.

At the same hearing, when asked if he favored a return to registration at this time, Deputy Secretary Duncan stated:

> I think some improved form of recordkeeping is necessary and that would probably mean registration. What you can do, if it weren't in the form of registration—I am not really that familiar with the Selective Service System to be able to respond to alternatives, but—there are other ways of getting the information. I would expect, however, you would have Privacy Act problems. I would say in my own judgment, and this is a personal judgment, the best way to get it probably would be to go to registration.

In answer to a question supplied for the record, Deputy Secretary Duncan said the Department of Defense would recommend registration be reinstated under any one of the following four conditions:

> The first of these is upon outbreak of hostilities or a clear threat of hostilities. During mobilization for war, the draft would be reactiviated and used as needed to allocate the Nation's manpower to enhance the mobilization effort.
>
> The second condition for reinstitution of registration may occur during a period of rising tension that might develop into military confrontation.
>
> The third condition under which we may recommend registration would occur if the Selective Service System is still unable to meet Defense requirements for inductees after implementation of its fiscal year 1980 budget initiatives.
>
> The fourth condition under which the Department would recommend registration would be if manpower strengths dropped to a point where national security were jeopardized and there were not enough volunteers to meet our manpower requirements.

Clifford L. Alexander, Jr., Secretary of the Army

Secretary Alexander, on January 30, 1979 in response to questions on the need to revitalize the Selective Service System said:

> We have problems in the Reserve component but, on balance, I have reached the conclusion that a draft at this time

is certainly not required and, indeed, would be quite counterproductive. On the other hand, to be reasonably prepared and to have an adequate assessment of the availability of people, if indeed an emergency situation were to arise, it seems to me that a limited registration would be in order so that the availability of people would be in front of us. Time could be saved and it would not be necessary to find out while the emergency was going on, what the availability of the people that you wanted would be.

So it is my personal assessment that it would be sensible for us to consider and discuss a limited registration, not classification, but limited to registration only.

Asked to define what he meant by "limited registration", Secretary Alexander responded:

> It would specifically mean accumulating information without a mass of details and without any significant inconvenience to the individuals who would be providing the information.

In answer to a question supplied for the record, Secretary Alexander explained why he felt registration is necessary:

> Peacetime registration will permit the Army to meet its wartime manpower requirements much sooner than is possible with the current capability of the Selective Service System. The inadequate enlisted strength of the Individual Ready Reserve (IRR) places increased importance on the responsiveness of Selective Service to meet Army wartime manpower needs. The Selective Service System was phased to its current "deep standby" mode in FY 1977 and has the ability of delivering the first registrants for induction at M+110 days and 100,000 by M+150. The DOD stated requirement for all Services is delivery of the first inductees at M+30, 100,000 by M+60 and 650,000 by M+180. Recent analyses of the Army training establishment indicates that under future emergency conditions the Army could be able to accept 184,000 new trainees by M+60 and 568,000 by M+180. Peacetime registration will assume the availability of the first inductees by M+15, more than 100,000 by M+60 and 650,000 before M+180 days. Although establishing peacetime Selective Service registration will not eliminate the Army's total mobilization manpower deficit or even influence the manpower shortfall in the first 90 days, it will shorten the time of availability to the deployed units of the first newly trained inductees from M+210 to M+110 days.

General Alexander M. Haig, Jr., Supreme Allied Commander, Europe, Commander-in-Chief, U.S. European Command

General Haig, in testimony before the Manpower and Personnel Subcommittee on February 22, 1979, expressed his concerns with the current All-Volunteer Force and possible remedies and stated,

> Today I think we need a system of registration, and I would support also, given what we know already, a classification system. Beyond that, we have to look immediately to what is necessary to remedy our shortfalls in the Reserve structure, especially in the Individual Ready Reserve.
>
> As we proceed along those lines, we will require additional empirical data, which should be shared with the American people and the American Congress. If that data shows, as I suspect it will, that early in the eighties we will have to go beyond reserve remedies and into actual structure itself, we will have already developed the consensus that can be supported enthusiastically by the American people or at least without active opposition.

Addressing the subject of national service, General Haig said, his personal feeling is,

> * * * that a young citizen of our Nation should be raised and nurtured in the context of some obligation of service to his Nation in either the military service or some form of Federal service for a brief period of time. It would be hard to judge what impact the all volunteer structure has had on our citizens' sense of obligation, but I think it could be ascertained there must be some.

Admiral Harry D. Train, Commander-in-Chief, Atlantic

Admiral Train, appearing before the Manpower and Personnel Subcommittee on February 22, 1979, was asked whether registration and classification would have an impact on the Navy's manpower problems. He responded:

> I agree with General Haig that it is important that, if we have to resort to this device to man our ships, to fill out our fighting structure, that we at least know where the people are that we would call into the service.
>
> In the past, the impact of the draft, as people were being drafted into the Army, had a beneficial impact on the Navy, people would enlist in the Navy rather than be drafted into the Army. Whether that would prevail today or not, I don't know.

General Bernard W. Rogers, Chief of Staff, U.S. Army
Admiral Thomas B. Hayward, Chief of Naval Operations
General Lew Allen, Jr., Chief of Staff, U.S. Air Force
General Louis H. Wilson, Commandant, U.S. Marine Corps

The four chiefs of the military Services appeared together at a earing of the Manpower and Personnel Subcommittee on March 13, 979, and testified on the need for the reinstitution of registration rocedures.

The witnesses all acknowledged that the Nifty Nugget mobilzation exercise indicated that the Services are not now capable of eeting U.S. national emergency requirements.

Asked if it is now necessary to reinstitute registration the replies were as follows:

> General Rogers. As a minimum, we should to go registration just as soon as we can.
>
> General Allen. Yes sir . . . the act of registration, while not needed for us in the same way that it is for the Army, would doubtless benefit the ability to recruit. I support registration and limited classification.
>
> Admiral Hayward. I am convinced that registration is a logical and sensible thing to do.
>
> General Wilson. I believe that registration is absolutely necessary.

Generals Wilson and Allen and Admiral Hayward were also asked whether they favored classification. Their responses were as follows:

> General Wilson. Yes, sir, I think classification is a follow-on to registration, and should also include examination. I think examination should probably come first—medical examination, and full classification in that order. Registration, examination, and classification in that order, depending again on the administrative difficulties involved. It is going to be difficult to start up again.
>
> General Allen. There are certain steps of classification that can be done with very little cost or administrative difficulty associated with registration. The first big charge, as I understand it, comes up with respect to physical examination. I believe that limited classification should certainly be done as part of registration. And I am, frankly, unsure in the matter of weighing expense against benefit as we get into the physical examination question.
>
> Admiral Hayward. I believe that if your legislation were to call for registration that the time required to get the mechanism moving and to be effective in registering would allow us more time in determining whether the next step ought to be medical and classification. There is a cost to that and one ought to do it, in my opinion, in conjunction with a decision to go to the draft for the IRR. If a decision is not to go in that direction, then I am not so sure that I can say now that we ought to make that investment in classification.

Asked if reinstitution of registration should include women, the witnesses stated:

> General Rogers. Women should be required to register in order for us to have an inventory of what the available strength is within the military qualified pool in this country.
>
> General Allen. My personal opinion is yes, sir. I think that the importance, with regard to the inventory, is not nearly the same for women as it is for men. Therefore, I would not believe that registration for women is essential. However, if there were feelings of equal treatment that would make the act of registration more acceptable, if it were done the same for men and women, then I would have no objection to the registration of women.

Admiral HAYWARD. I concur almost exactly with what General Allen has said. In my judgment, the requirement for large numbers of women for mobilization purposes, hence registration, is not there. If it were intended to accelerate our ability to mobilize, I would not support a requirement for registration of women nearly to the degree that I could male registration. It seems to me the issue really is a political decision more than a military requirement decision.

General WILSON. Yes. I believe they should be registered. I think from a pure equitable point of view, women in the Marine Corps are doing very well.

Asked whether the witnesses would be in favor of women being drafted for the purposes for which women are used today, they responded:

General ROGERS. I am not prepared to agree that they should be drafted as of today, even for those skills for which they are today being utilized. But if they are to be drafted, they should only be drafted for those skills for which they are being utilized today.

General ALLEN. As far as the Air Force is concerned, the argument as to whether women should or should not be included in the draft is a deferral to the Army, which has a different kind of problem, or is a question of equity, on which I am really not prepared to voice an opinion. It would not have any unfavorable effect on the Air Force. We would have no objection to such a draft.

Admiral HAYWARD. From a military point of view, there is no need for drafting women into the U.S. Navy. From the standpoint of equity, it seems to me as though that really is a political decision rather than a military decision.

General WILSON. I believe that we can meet our goal satisfactorily. From an equitable point of view, or perhaps as a result of the inevitable court contest which will come up if, in fact, men and not women are drafted, we would be perfectly happy to have women drafted. That is, up to the 5 percent goal which I believe we can handle in the Marine Corps.

The witnesses were asked if they would be in favor of this session of Congress reinstituting the draft and they replied:

General WILSON. I believe the draft is necessary. I believe it will be necessary in the decade of the 1980's. At the moment I believe registration should come first.

Admiral HAYWARD. I am not in favor of this session of Congress reinstituting the draft.

General ALLEN. I am not in favor of this session of Congress reinstituting the draft.

General ROGERS. If this session of Congress could reinstitute the draft, I would be in favor of it. I believe that we already are behind the timetable that I would like to have seen to reinstitute registration. I personally believe, that there is nothing that we have underway now or anything on the horizon which will solve the problem of the Individual Ready Reserve, except resort to the draft for the Individual Ready Reserve. We do not need to draft for the Active Component; we do not need to draft for the Reserve Component units because by drafting for the Individual Ready Reserve, this country will be able to fill the Reserve Component units and Active Component units on a volunteer basis.

General Allen and Admiral Hayward were subsequently asked if they felt, given the current trends, that a draft in some form was inevitable in the future. They responded:

> General ALLEN. As a member of the Joint Chiefs and in consideration of the problem faced by the Army, I do believe that a draft into the IRR is very likely to be required and is a matter to which Congress should give very careful consideration as soon as it can be attended to in an orderly fashion.
>
> Admiral HAYWARD. To say that it is inevitable is stronger than I would like to say at the present time. My personal judgment is that it is likely, but I would condition the degree to which I would say it is inevitable.

General Rogers visualized how the draft for the Individual Ready Reserve which he advocated would work:

> Registration would have to be instituted. Classification would then have to be instituted. Seventeen categories of classification are required, and 16 can be done just from registration, if you have the local boards operative, which they should be.
>
> The 17th category is the physical and mental examination. We should move to that examination. Then, to start drafting for the IRR, we would need somewhere between 75,000 and 100,000 per year, in my opinion, to be drafted, and in 6 years we would fill our requirements for the IRR.
>
> There would be a nationwide random numbered sequence lottery again, as we had in 1971 and 1972. Then there were very few exemptions. Indeed, 95 percent had no chance of exemption under those rules of engagemnt. They were put at risk for only 1 year. Depending upon requirements, they would be called up according to the random numbered sequence in which they fell.
>
> Frankly, by 1971, we had a draft system which was much more equitable than we had had prior to that time.
>
> I wish something like that again if we draft.
>
> Now, what would we have to do to get 75,000 to 100,000? Probably we would have to go for somewhere between 250,000 and 300,000 of those who registered. Of that group, about 200,000 would be eligible for examination. Fifty percent of them would not qualify, for mental or physical reasons for the draft. So, we would have to adjust the numbers according to our experience.

Addressing the Army's ability to absorb a large influx of personnel at the training facilities, General Rogers said:

> We have the capability to accept the numbers I am speaking of. Without opening any training bases we know for sure

somewhere between 65,000 and 75,000 additional trainees can be absorbed if we draft for the IRR.

If we go with 75,000 plus the payoff of the initiatives I mentioned, we will get 400,000 into the IRR by 1985. Then we would have a steady state intake of somewhere around 75,000 per year. That is going to cost some money; but we do have the capability to do that.

Asked if, in lieu of going to peacetime registration, the possibility of purchasing information on the number of 18-year olds had been considered, the witnesses said:

General **Wilson**. I know of no such lists that are available. I know there have been suggestions to go through Internal Revenue, but I believe that, too, is constrained by the Privacy Act.

Admiral **Hayward**. The present Selective Service System badly needs resurrection. So, to go to a system, if it were available, through some other means, would not in any way improve the Selective Service mechanism which needs modernizing.

General **Allen**. Among the various steps which we felt essential, one of the first and most straightforward was making the Selective Service mechanism more effective and reinstituting registration and some limited form of classification is part of that process.

General **Rogers**. If registration is required, an individual should have to step up and register and not have someone be registering for him based upon whatever information could be made available. To me that is completely transparent and is not appropriate.

Later in the hearing all witnesses agreed that they favored an active, not passive, registration.

All of the witnesses were asked to supply for the record their general views on the concept of national youth service. The responses received are as follows:

General **Rogers**. I do believe such a program should not be based solely on military manpower needs, but rather on the needs of our Nation and the cost of such a program relative to other national objectives. However, if a decision is made to implement a national service program, the manpower requirements of the Armed Forces will have to be considered in designing and implemening such a program.

Admiral **Hayward**. Philosophically. I would view compulsory national service in much the same manner. I am not in favor of a massive voluntary national service program. Frankly, I do not believe that large numbers of our youth could be productively employed in the public sector and I would much prefer that they learned early a healthy appreciation of the competitive disciplin[illegible] found in the private sector.

General **Allen**. In regard to natio[illegible]e, there are some segments in our society which belie[illegible]e young men and women of America owe to their country or to their fellowman or to themselves, some period of service in the public interest, such as the Peace Corps, Vista, the National Teachers Corps, and the branches of the Armed Forces.

An argument for national service is that all eligible citizens would be compelled to serve the country in some way. Those not needed by the military, would be directed to other service programs with no one escaping service, thus achieving true equity in the view of some.

While there are plausible arguments for National Service, no form will be as readily accepted by the American people as the All-Volunteer Force concept. There is no fair way to equate non-military service with military service.

One of the biggest arguments against compulsory service of some type for all our youth is the prohibitive cost. Current estimates show a cost of $24 billion to implement such a program. Another argument against mandatory service programs is that all types of National Service are not equally desirable. However, the biggest argument against a mandatory service for all is that it does not replace the draft, it merely extends it to a larger segment of the population.

General Wilson. I am opposed to the concept of national youth service. It is a tremendously expensive proposition, which would be enormously difficult to manage. It could not possibly utilize all the youth of this country equitably. In all probability it would only serve to engage a large proportion of our youth in nonproductive effort. Moreover, it could alienate our youth, and further weaken our governmental institution.

Lieut. Gen. Charles C. Pixley, MC, the Surgeon General, Department of the Army

Lieutenant General Pixley, appearing before the Manpower and Personnel Subcommittee on March 20, 1979, on military medical programs, testified that he personally believed that registration is required now as a minimum and that classification is required now. He further testified that, "certainly a draft would help us, just a draft into the Individual Ready Reserve. That would alleviate the shortages of physicians in the Reserve components." For the record, Lieutenant General Pixley provided the following expansion of his statement:

> Reinstitution of the draft as it existed prior to 1973 would provide the manpower assets needed to restore a desirable level of peacetime health care and eventually bring the Reserve up to strength. Although registration and classification would not achieve the results of reinstitution of the draft, they would probably serve as a catalyst to enhance Reserve procurement. An IRR draft could alleviate the Reserve shortage, at least in total numbers, and might enhance active duty procurement if the IRR obligation could be satisfied through a relatively short period of active duty. In regard to physicians, dentists, and other professions which involve extensive

> education and training beyond the baccalaureate level, there would be a problem in that the so called "doctor draft" expired in 1973. Therefore, the Selective Service Act as it now stands would not permit conscription of individuals in the proper age groups and would not permit selection by profession. To resolve that problem I would suggest that Congress consider amending the Selective Service Act to include on a permanent basis provisions similar to the old "doctor draft." Standby "doctor draft" legislation maintained by the Director of the Selective Service System could be used as the basis for such amendment.

Asked his personal opinion of national service, Lieutenant General Pixley said he thought it was a good concept because serving one's country for 2 years was not a waste and such a system would offer individuals other options besides serving in the Department of Defense.

Lieut. Gen. Paul W. Myers, the Surgeon General, Department of the Air Force

Lieutenant General Myers, appearing before the Manpower and Personnel Subcommittee on March 20, 1979, on military medical programs was asked if he personally thought the Services had reached the point where they would need to have some form of compulsory service in order to get sufficient numbers of medically trained personnel. He responded,

> For us to meet the requirements of some kind of conflict, God forbid, in the next several months, we would certainly have to revert to some kind of compulsory service.

He went on to agree with the Army Surgeon General's statement on the positive effect a draft into the Individual Ready Reserve would have on alleviating physician shortages in the Reserve components. Lieutenant General Myers also expressed his belief in the concept of universal service.

Lieutenant General Kenneth McLennan, Deputy Chief of Staff for Manpower, U.S. Marine Corps

Lieutenant General McLennan, appearing before the Manpower and Personnel Subcommittee on March 27, 1979, was asked his personal views on registration, classification and the need to return to a draft if current trends continue. His response was:

> My personal view is yes; we need to revitalize the Selective Service System, and it should include both registration and classification.
>
> If the trends continue as they have over the year, I would say that a draft is inevitable to maintain the strength levels of the U.S. Armed Forces.
>
> I would say that we need to move into registration and classification as soon as possible. For my service, I don't see a need for a draft until we are into the decade of the 1980's.

Vice Admiral Robert B. Baldwin, Deputy Chief of Naval Operations for Manpower, Personnel, and Training, U.S. Navy

Vice Admiral Baldwin, appearing before the Manpower and Personnel Subcommittee on March 27, 1979, was asked his personal views on registration, classification and the need to return to the draft if current trends continue. His response was:

> I think that we should have registration and classification now. We certainly should have the machinery that we know will work to produce them as fast as possible.
>
> I think current trends will continue unless some rather significant things are done. To keep an All-Volunteer Force healthy and to keep the services populated with the kinds of people that we need, it will be increasingly expensive. Of course, that is the concern of Congress, I recognize, and really is a decision for the people of this country to make.
>
> I feel that we should never be in a condition of having to wonder whether we will have enough people in the armed services to support the level of defense that we need. If it takes a draft to insure that we have those quantities of people, then I think it is appropriate that we have that. As trends look now to me, I think that we will unquestionably require a draft because the other kinds of things that you would have to do to sustain the All-Volunteer Force probably are going to prove to be of such an expense that it would cause serious problems.

Expressing his views on the concept of national service, Vice Admiral Baldwin said,

> I think there is something philosophically to be said for service, be it selective or be it national. Personally, I think that national service is probably too cumbersome an operation, but I am not an expert in this. Ideally, to me that would be a good solution; it would appeal to me as a citizen.
>
> As a practical matter, it would be very difficult. But I do think that selective service, truly selective service, where there are no favors given, if you will, is something that I can accept. I was willing to accept that when I was a young man and I have not changed in my view of that.

Lieutenant General Robert G. Yerks, Deputy Chief of Staff for Personnel, U.S. Army

Lieutenant General Yerks, testifying before the Manpower and Personnel Subcommittee on March 27, 1979, explained the form of registration which the Army advocates reinstituting as follows:

> The Army's position is to have an open, direct, public registration with no surreptitious gathering of information from other sources, such as income tax returns, drivers licenses, and so forth. This is a registration of both males and females in a participatory sense, that is, actively registering and being tabbed and tabulated in a Selective Service System.

Later, Lieutenant General Yerks was asked his personal opinion on the need for registration, classification and the likelihood of the necessity for a return to the draft if current trends continue. He responded:

> It is my personal belief and conviction that we should go to registration and classification immediately this year. That includes physical examination.
>
> If current trends continue, I think it is inevitable that some type of involuntary service is in order.
>
> I would say that in all likelihood the best thing to do would be to create a debate this year, pursue our initiatives, get registration and classification, and then make a very hard decision next year as to whether or not those initiatives are, in fact, promising enough to risk further undermanning of our force.

Lieutenant General Bennie L. Davis, Deputy Chief of Staff for Manpower and Personnel, U.S. Air Force

Lieutenant General Davis, appearing before the Manpower and Personnel Subcommittee on March 27, 1979, summarized the Air Force position on the need for registration, classification and need for a return to the draft as follows:

> For the Air Force, I believe that the All-Volunteer Force can remain a viable peacetime effort. I also recognize that the risk of having insufficient military personnel available during a national emergency is a vital issue. As a result, I believe and it is the Air Force position that registration and classification is a crucial aspect of manpower mobilization.
>
> The Air Force endorses heartily the need to strengthen the Selective Service System so that it can be responsive to manpower mobilization requirements. We do not envision a return to the draft at this time. Our management initiatives, combined with adequate resources, can provide enough voluntary enlistment to continue, from an Air Force point of view, the viability of the All-Volunteer Force.
>
> From an Air Force point of view, I think we can meet our peacetime requirements, provided those requirements do not increase significantly. If we go much above 2.1 million, then it will be a very, very marginal effort. If we are talking about sizable shortfalls in the Army's Individual Ready Reserve and we are going to fill those, then my personal view is there is no question about needing some sort of mandatory program to fill the sizable shortfall.

Robert L. Nelson, Assistant Secretary of the Army (Manpower and Reserve Affairs)

Mr. Robert L. Nelson, in a statement submitted for the record during the Manpower and Personnel Subcommittee meeting on April 4, 1979, stated,

> The Army supports peacetime registration in order to assist in our mobilization and manpower planning.

Robert B. Pirie, Jr., Acting Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics

Mr. Robert B. Pirie, during his nomination hearing to be Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics before the Manpower and Personnel Subcommittee on April 6, 1979, said,

> I do not favor either registration or classification. If I become convinced that registration and classification later will improve our situation with respect to the demand for rapid mobilization and deployment of our troops, I won't hesitate to make that recommendation to my superiors.

When asked why he didn't see the need for registration and classification when the Department of Defense admitted it would take 110 days for the first recruit to go to training, the shortfall of the Individual Ready Reserve was 500,000, and all the members of the Joint Chiefs of Staff supported registration, Mr. Pirie replied.

> With respect to the 110 days, that is an estimate based on the current capability of the Selective Service System. The Selective Service System has come forward and requested funds to improve that capability such that the first recruit would reach training around 30 days after mobilization, and that by 90 days after mobilization, some 100,000 recruits would have begun training.
>
> The Selective Service System and its director have said that they can achieve those kinds of delivery rates. The Congressional Budget Office, in their study, indicated that they believe that that could be the case, and that is indeed a very rapid, unprecedented rate of delivery of people.

Major General J. Milnor Roberts, U.S. Army, Retired, Executive Director, Reserve Officers' Association of the United States

Major General Roberts, appearing before the Manpower and Personnel Subcommittee on April 9, 1979 testified that the Reserve Officers' Association

> * * * urges the President of the United States to issue a proclamation immediately reestablishing draft registration procedures for the Selective Service System. We urge the Congress to direct an immediate revitalization of the Selective Service mechanism; require registration of all 18-year olds; and prepare for classification as a minimum to be accomplished in fiscal year 1980.

Captain Fred D. Carl, U.S. Naval Reserve, Retired, President, Naval Reserve Association

Captain Carl, appearing before the Manpower and Personnel Subcommittee on April 9, 1979 stated,

> The Naval Reserve Association strongly favors a return to a national registration under the Selective Service System as a minimum. We also believe that the personnel so regis-

tered should be classified. The Association has established no policy concerning the registration of women. The most logical policy would probably be to register women but not to classify them or give them a medical examination. In this manner the cost would be held to the minimum but the preliminary data would be available for women should the decision be made at a later date to draft females.

Mr. C. A. McKinney, Director of Government Affairs, Non-Commissioned Officers' Association of the United States

Mr. McKinney, appearing before the Manpower and Personnel Subcommittee on April 9, 1979 indicated

> NCOA recommends a return to the draft. Through the Selective Service System young men should be ordered to basic training, assigned to either a selected reserve or guard unit, and then transferred—after serving an initial tour—to the IRR. Of importance here is the basic training period. It will be of great value to the young man if mobilized. Time will be of essence. Reserve and guard units will be needed immediately if our active forces are attacked by a massive enemy offensive. There'll be no time to train our youngsters. If they are not initially acquainted with the combat skills, they will be no more than cannon fodder. God forbid we'll ever see another war, but the U.S. must be prepared for one, and our youth must also be ready. The lottery draft system appears to be the way to do it.

Major General Francis S. Greenlief, Retired, Executive Vice President, National Guard Association of the United States

Major General Greenlief, appearing before the Manpower and Personnel Subcommittee on April 9, 1979 testified that the National Guard Association

> does believe that a draft is the way to provide manpower. We doubt that is now politically obtainable. Currently we asked for legislation which will provide registration, examination, classification to include telling the man what his classification is. And finally we asked for authority to draft young adults into the IRR. Now, we believe that is the only way of restoring the IRR in the near future. And if we can believe the stress is as real as we are told, we believe the IRR must be restored."

Richard Danzig, Acting Principal Deputy Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics

Mr. Danzig, testifying before the Manpower and Personnel Subcommittee on April 10, 1979, outlined what steps need to be taken to upgrade the capabilities of the Selective Service System in the following manner:

> One of our major problems is that we lack a Selective Service System which is able to deliver people on the schedule we

> want them to. Today they are not able to deliver the first people at M plus 30; moreover, they are not able to deliver the 100,000 we have requested at mobilization day plus 60.
>
> In order to bring the Selective Service System to that point we must first give it the resources—in terms of computers, in terms of planning assistance and the like—that will enable it to process people faster. We can argue about registration and decide whether it is good or bad, desirable or undesirable, but registration won't work without those resources. You have to have those resources first.
>
> Second, we need to have our authorities in hand on a standby basis in the event of a mobilization. We need to be able to act then in ways that are useful.

Mr. Danzig indicated that he understood the proponents of a return to registration are acting in good faith and that the Department views such a move as "potentially a useful proposal." Asked if he was in a position to recommend reinstituting registration now, Mr. Danzig replied,

> No; not at the moment. I think some questions must be answered before I personally would favor it. We (the Department of Defense) are in the midst of looking quite closely at those questions.

Later, Mr. Danzig expanded his position further by saying:

> The basic point to underscore, I think, is that registration is not relevant to the pretrained individual shortfall, and it is the pretrained individual shortfall that I think really worries us. Registration may be relevant to other things, and indeed I think there are arguments for and against it, but those are not concerns that we have been primarily addressing.

John Brinkerhoff, Special Assistant to the Deputy Assistant Secretary of Defense for Reserve Affairs

Mr. Brinkerhoff, testifying before the Manpower and Personnel Subcommittee on April 10, 1979, expressed his personal views on registration and classification as follows:

> Let me say about classification first that if a registration were accompanied by any method that indicated to an individual his sequence in a draft, I think that would be hurtful to our recruiting capability. The experience in the last years of the recent peacetime draft indicated that when people knew about when they were going to be called and the probability of being called, that those that were in no imminent danger of being called didn't volunteer. I think that might be damaging to the recruiting for the Guard and Reserve.
>
> As far as a registration or classification without some indication of sequence number, it is not clear this would do anything for the Guard and Reserve. It would give us some leads for recruiting, some names and addresses of the 18-

year-olds, and each succeeding year, we would build up a better address file. There may be other ways to do that.

It is not clear that registration alone, in the absence of an actual draft, would cause people to join the Guard and Reserve.

What we need, really, for pretrained manpower, is some authority to locate people and confirm their addresses and make sure that their condition is known to us, so that we can manage them properly. Registration, of course, wouldn't solve that particular problem.

So basically, from the standpoint of the Guard and Reserve, my personal view is registration would not help us particularly. On the other hand, from the standpoint of raising the consciousness of the Nation, and particularly the youth of the Nation, toward service to their country, it might do some good.

Major General J. C. Faith, U.S. Army, Director of Operations and Readiness

Major General Faith, appearing before the Manpower and Personnel Subcommittee on April 10, 1979, was asked his personal view of the need for registration. He responded,

> I would support, personally, registration and classification. I think there might be some spin-off in improved enlisted strengths. I don't think it is necessarily a prelude to the draft, in the sense that that word has been expressed here. It would shorten the time it takes you to get your first draftees in to start training, in the event of a mobilization.

On May 21, 1979, the Subcommittee on Manpower and Personnel met to receive testimony on the reinstitution of procedures for registration under the Military Selective Service Act. The following witnesses appeared and pertinent parts of their testimony are summarized below:

David E. Landau, Staff Counsel, American Civil Liberties Union, Accompanied by Barry Lynn, Legislative Counsel, United Church of Christ

The American Civil Liberties Union "opposes peacetime military conscription and an active Selective Service System as a severe infringement on individual liberties" and they "call on the Congress to halt the march towards conscription and to hold a broad national debate on this issue."

Barry Lynn, Chairman of the Committee Against Registration and the Draft stated, "There is no legitimate excuse today for reinstituting draft registration." He cited three reasons why congressionally mandated registration is unnecessary: (1) The President already has the authority to begin registration again; (2) lack of evidence that registration will improve military readiness; and (3) the Selective Service Director has stated he can meet DOD mobilization requirements if requested funds are appropriated.

Asked if the ACLU would endorse the computerization and use of Internal Revenue Service and Social Security names in order to avoid going to a registration, Mr. Landau answered:

> If we are in an emergency, if we were in a declared war situation like World War II, we would not object to the use of data matching IRS and Social Security files. We do object to the use of it in peacetime. We think that would be a gross abuse of personal privacy.

Reverend Milton Zimmerman, Hutterian Society of Brothers

The Hutterian Society of Brothers requests that any change to the Military Selective Service Act provide for continuation of the conscientious objector status, reviewed by civilian authorities, in return for civilian service, and exclude registration and drafting of women.

Ms. Melva Mueller, Executive Director,
Women's International League for Peace and Freedom

The Women's International League for Peace and Freedom objects to registration or conscription of either men or women. They see conscription "as incompatible with fundamental American values negating as it does freedom of choice for the draftees, interrupting his or her work, education or family life." They believe peacetime conscription is unconstitutional and object to the use of Social Security, school records and Internal Revenue Service records to facilitate registration on the grounds it threatens the right of privacy. They advocate a full examination of our military manpower requirements before any action on registration or conscription takes place.

C. A. (Mack) McKinney, Staff
Director, Non-Commissioned Officers Association

"The Non-Commissioned Officers Association believes there is a necessity not only to register our young men, but to induct them into the reserve and guard in order that this Nation, as well as they, are prepared for any wartime emergency." They suggest that women not be included in a draft proposal because of the need for trained combat soldiers.

James E. Bristol, Staff Member,
Friends Committee on National Legislation

The Friends Committee on National Legislation "opposes draft registration as unnecessary and as a first step toward reactivation of the military draft in the United States." They oppose conscription "because it is an integral part of the war system, whose ultimate intent is the destruction of human life. This is deeply abhorrent to our religious values."

Kenneth B. Hoover, Mennonite Central Committee

The Mennonite Central Committee feels "to commence registration would open the door to evils inherent in peacetime conscription that erode freedom and democracy. The proposal to amend the Privacy Act to permit the Selective Service Systen to obtain registration data from schools and government agencies is particularly undesirable." They oppose registration for everyone, including women.

Ronald P. Hanft, National Interreligious Service Board for Conscientious Objectors

The National Interreligious Service Board for Conscientious Objectors "is unalterably opposed to all forms of conscription, be they military or any form of compulsory civilian service". They believe other alternatives to Reserve manpower problems are available other than reinstatement of registration for the draft, and would object to the waiver of the Privacy Act for the collection of data. They urge careful Committee consideration of enforcement problems associated with registration.

Thomas Conrad, Board Member, Central Committee for Conscientious Objectors

The Central Committee for Conscientious Objectors views registration as a vital component of the conscription process and that "the draft will once again put the government on a collision course with this Nation's youth." They cautioned that Americans will reject the draft as they did a few short years ago.

Thomas G. Palmer, St. John's College, National Chairman of the Students for a Libertarian Society

"Institution of the draft and compulsory national service, toward which mandatory registration is clearly but the first step, would be an enormous move toward the complete and total domination of American society by the government. It would be a profoundly un-American step, for it is a betrayal of the American revolution and of all it stands for, of the rights to life, liberty, and the pursuit of happiness."

David Henderson, Assistant Professor, University of Rochester

"Registration is not the draft. It is just the foot in the door for the draft. The All-Volunteer Force is not too small, too dumb, or too black. The draft does not cost less than the All-Volunteer Force. The draft does not prevent the military from engaging in reckless adventures abroad, witness Vietnam."

Lieutenant General Edward C. Meyer, Nominated to be Chief of Sta of the Army

Lieutenant General Meyer, during his nomination hearing to Chief of Staff of the Army on June 7, 1979, expressed his views registration as follows:

> I support registration and believe there is some work that has to be done on the Selective Service Act to insure that when we register young people we know what we are registering them for.

Asked how long it would take today, in the event of a natio emergency, to process personnel and provide people in new units bolster our forces, General Meyer responded:

> It would take a minimum of 210 days to get manned, started and turning out the first trained draftees with the current system.

Asked whether he believed there was any military or natio security reason to register women General Meyer said:

> It would seem to me that from a purely military point of view, a cataloguing of assets, which is what registration is, is helpful, and therefore, a cataloguing of male and female assets, with a clear understanding that they need never be called, would be useful.

General Meyer was then asked his feelings on calling women draft situation and he replied:

> I think that would be a last resort issue involving the survival of this Nation. As you are focusing on the survival of the Nation, knowing where all the available assets are and having them registered makes sense. But calling them up is something that I think you would have to have a national consensus on. That is beyond my military ken.

General Meyer next was asked if he could foresee any scenario u which women would need to be called in a draft situation. He sponded, "I cannot, sir.". He was then asked if that were the cas he did not consider it to be a waste to go through the process of r tering and classifying women if there is no intention to use them draft situation. He responded, "There is some waste. You said, c visualize a reasonable scenario? No! Are there scenarios that ar reasonable, but possible? Perhaps—if you had an all-out nuclea change, where you really had to know, as best you could, what wa and where people were."

Committee Action

In accordance with the Legislative Reorganization Act of 19 amended by the Legislative Reorganization Act of 1970, there forth below the committee vote to favorably report this bill, S. 1 amended.

In favor: Senators Stennis, Jackson, Cannon, Byrd of Vir Nunn, Morgan, Tower, Thurmond, Goldwater, Warner, Hump and Jepsen

Opposed: Senators Culver, Hart, Exon, Levin and Cohen.

Vote: 12-5.

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REGULATORY IMPACT

Paragraph 5 of rule XXIX of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on such bill. S. 109 as amended requires the registration of 18–26 year old men commencing January 2, 1980, in the manner prescribed by the President. Evaluation of the regulatory impact of the bill is not possible at this time, since the bill requires a complete reexamination of classification and examination, as well as other procedures under the Military Selective Service Act.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 14, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 109, a bill to require the reinstitution of registration of certain persons under the Military Selective Service Act.

Should the committee so desire, we would be pleased to provide further details on this cost estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 109.

2. Bill title: A bill to require the reinstitution of registration of certain persons under the Military Selective Service Act, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Armed Services on June 11, 1979.

4. Bill purpose: The bill requires the President to commence registration of citizens and other persons in accordance with the provisions of the Military Selective Service Act on January 2, 1980. It limits the authority of the President to suspend registration and prohibits, prior to January 1, 1981, the classification and examination of persons pursuant to the Act. The bill has other provisions that do not have a cost impact.

5. Cost estimate:

Estimated authorization amounts and estimated outlays:

Fiscal year:	*Millions*
1980	$6
1981	7
1982	7
1983	8
1984	8

The costs of this bill fall within function 050.

**6. Basis of estimate: The estimate is based on implementation plar
of the administration and assumes that it registers individuals as r
quired by the bill but does not conduct classification or examinatio
procedures even after the date permitted in the bill. This assumptio
is made because it is neither the intent of the bill nor the policy of t
administration to classify or examine individuals under the act.**

**7. Estimate comparison: The administration has estimated the cos
of "nonemergency" registration to be $6 to $8 million annually for o
going operations but not including start-up costs.**

**8. Previous CBO estimate: The cost of this bill could be about
million in 1980 increasing to about $5 million in 1984 if another impl
mentation plan were used. For example, the bill could be implement
using existing field structures such as the Federal Postal System a
computerized files of the Internal Revenue Service or Social Securi
Administration instead of expanding or creating new structures
gather data and administer the program. The CBO budget issue pap
entitled "The Selective Service System: Mobilization Capabilities a
Options for Improvement" contains further discussion of this iss**

9. Estimate prepared by: Michael A. Miller (225–4844).

10. Estimate approved by:

JAMES BLUM,
Assistant Director for Budget Analy

ADDITIONAL VIEWS OF MR. CULVER

The Senate Armed Services Committee has acted prematurely in reporting legislation requiring the resumption of peacetime registration. Three substantive issues continue to seriously concern me.

First, the Department of Defense and the Army have never fully justified induction requirements to the Congress, particularly in the wake of the October 1977 revisions which increased those requirements nearly 50 percent. All judgments as to the adequacy of the Selective Service System to meet Pentagon requirements, and the need for an efficacy of corrective actions rest on the validity of these stated manpower needs.

The development of manpower requirements is not an exact science. Requirements for inductions rest heavily on a string of assumptions ranging from the warning time available before mobilization, to the length of the conflict, its nature, intensity and likely casualty rates, as well as such things as estimates of the magnitude of voluntary enlistments. The October 1977 revisions, in part, appear to reflect changes in these assumptions which remain highly controversial. There is clearly a necessity to make assumptions in the determination of manpower requirements, and prudent hedging is an accepted practice in defense planning. However, equally as obvious is that these assumptions should be critically evaluated by policymakers and that the scenarios on which our planning is based must represent real possibilities and not incidents with an extremely remote likelihood of occurrence.

The October 1977 adjustments to induction requirements are also said to reflect declines in Selected Reserve and Individual Ready Reserve strengths. While these declines must be revised, registration is not the answer. Because draftees must be inducted and receive three months of training, they can have little or no impact during the first four or five months of a war. They cannot substitute for shortfalls in pretrained manpower. The Department of Defense is properly pursuing initiatives to correct Selected Reserve and IRR shortfalls, but boosting induction requirements is clearly not a proper response.

Finally, it appears induction requirements are set to reflect training base capacity and not vice versa. The Committee report quotes General Rogers as saying, "The required delivery rates of the Selective Service System need to be reexamined and adjusted to meet the training capacities of all the Services. It is necessary to plan to keep military training establishments filled to capacity in any situation requiring full mobilization." This is a convoluted way to set requirements.

Secondly, even if we accept currently stated Pentagon requirements for inductees there is the question of whether peacetime registration is necessary to meet those requirements. Two recent pieces of evidence suggest that peacetime registration may not be necessary. The Congressional Budget Office in a November 1978 study of the Selective Service System's mobilization capabilities looked at three options for improve-

ment ranging from maintaining the current standby posture with
a computer support upgrade and revision of post-mobilization regis-
tration plans through reinstitution of peacetime registration and clas-
sification. The study concludes that "All three options . . . can po-
tentially meet DOD's current induction schedule."

Last month Selective Service System Director Robert Shuck in
letter to Senator Cohen stated that with the Administration's reques
for $1.7 million in Fiscal Year (FY) '79 supplemental funding an
their 1980 budget request of $9.8 million the Selective Service "wil
be able to develop the capability to start the delivery of inductee
within 30 days." This would meet the accelerated mobilization sched
ule required by the Defense Department.

These examples suggest that there are alternatives that can mee
current military requirements. The Committee report dismisses thes
alternatives, but it is instructive to note that neither the Director
Selective Service nor CBO representatives have been called to presen
their views before the Committee.

Thirdly, there is the question of whether the additional time save
by peacetime registration in beginning inductions has any militar
or practical significance. While there does appear to be evidence that
post-mobilization registration could meet the current DOD requir
ment of beginning inductions within 30 days, there is general agre
ment that peacetime registration would allow inductions to begin
the order of 13 days earlier. The current induction requirements, how
ever, assume the training base will be filled in the first month wi
volunteers and individuals in the Delayed Entry Pool. In this ca
the earlier induction capability of a peacetime registration would
of no practical significance.

The Committee report, however, now claims the Army has d
covered additional training capacity that will allow it to take mo
than three times as many inductees in the first month and that Sele
tive Service requirements can be heightened to reflect this fact. T
claim appears to fly in the face of considerable evidence. The Gene
Accounting Office just last month released a report extremely criti
of the Army's ability to meet mobilization training requirements und
the current induction schedule. It is also difficult to reconcile
Army's claims of additional training capability immediately up
mobilization with the fact that we are in the process of closing do
one of the Army's major training centers at Fort Dix. The potent
to expand Army training base capacity upon mobilization refer
to by the Committee report is merely a paper potential at best. So
of the steps proposed by the Army could not be undertaken until
1982 and later. The Committee has taken no testimony on the Arm
plans and has only a four-page "information paper" in support
their validity.

The President currently has the authority to begin peacetime
istration. He has not found the justification to do so. Until satisf
tory answers can be provided to some of the above questions I can
now support a return to this practice either.

John C. Culve

ADDITIONAL VIEWS OF MR. HART

At this time, and in the absence of compelling evidence to the contrary, I am opposed to the reinstitution of draft registration, and to any other measure which would suggest the restoration of a military draft. Registration cannot be considered separately from the draft itself; if there is no reason to return to a draft, there is no valid argument for registration. There is no evidence to support the belief that registration alone would induce a significant number of people to volunteer.

Arguments in favor of returning to a draft are based on three major false premises.

The first false premise is that our Army requires approximately 780,000 men and women to generate its current 19 division equivalents. In fact, we should be able to form 19 division equivalents from a substantially smaller Army. The United States Army today has the lowest ratio of combat power to manpower in the world, among major powers. Its total Army division "slice"—the number of personnel required to man and support each division—is over 40,000 men. In contrast, the French slice is about 25,000, the German 28,000, and the Israeli 27,000.

A principal reason for our Army's inefficient use of manpower is its outdated firepower/attrition doctrine. This World War I doctrine requires, not surprisingly, a massive World War I-type logistics and support system which absorbs large quantities of manpower. A shift to a maneuver doctrine of ground warfare would both improve the Army's effectiveness in battle and enable it to generate more combat forces for a given quantity of manpower. The Soviet army, which has a maneuver doctrine, has a division slice of just over 10,000 men (including category II and III divisions; but the above U.S. figures also include four "category II" divisions, divisions which require a National Guard augmentation brigade). If the U.S. Army could achieve a division slice of 25,000 men—about average for our allies—we could field our current 19 division equivalents with 475,000 men, a saving of about 300,000. If the Army needed 300,000 fewer men, would we still hear arguments for returning to a draft?

The second false premise is the concept of a "Nation in Arms." We still structure our peacetime military, especially the Army, to be capable of massive expansion in time of war through a return to a draft. Currently, the Department of Defense has a stated requirement for 650,000 draftees by 180 days after mobilization.

It could be argued that two types of ground conflict might require a draft: a prolonged conflict in a secondary theater, such as the war in Vietnam, or a war in Europe. I seriously question whether we should plan for the first type of conflict. Based upon our Vietnam experience, such wars seem to cost more than they are worth. While we may have to engage in short, sharp "police actions" in the Third World to support allies against external aggression, our current 19 active Army divisions, 3 Marine Corps divisions, and 8 National Guard divisions would appear more than adequate for such. Indeed, we do not have the air or sea transport capacity to move and support overseas more than a fraction of that force. A draft would not seem relevant to a short Third World conflict.

In terms of a conflict in Europe, we must look at the mobilization requirements in both the early phase, where rapid reinforcements is the stated objective, and in the longer term. Several questions can be raised about the requirement for early-phase reinforcement, and about the relevance of a draft to that requirement:

(*a*) If, as seems likely, a war in Europe occurs with little strategic warning, can we realistically plan for early reinforcement? Where do aircraft carrying reinforcements plan to find undamaged airfields on which to land? Will pre-positioned stocks be intact? Will highly vulnerable European port facilities be intact and able to receive the equipment for reinforcing units? How will arriving units assemble and move to battle areas while under attack? Unless these questions can be answered satisfactorily, and in my view they have not received satisfactory answers thus far, the rapid reinforcement requirement is open to question.

(*b*) Can we move existing units to Europe in the early phase of a conflict? Not all active Army divisions will have pre-positioned equipment, even when current plans are fulfilled. No National Guard divisions will have pre-positioned equipment. Without pre-positing, it seems improbable that units can be used as units for early-phase reinforcement. Can we not use troops from the units which we cannot move to Europe in the early phase to provide individual replacements, especially in the combat arms, for the units which are fighting? If this is done, how urgent a problem is the current shortage in the Individual Ready Reserve?

(*c*) Should early-phase reinforcements be a European rather than an American task? The European NATO nations have a large pool of trained reservists most of whom today have no unit assignments or equipment upon mobilization. Rather than the United States returning to a draft, would it not be more efficient for our European allies to take over the early-phase reinforcement task, using these reservists to form combat units? This would not put an inequitable burden on the Europeans if it were coupled, as I believe it should be, with an assumption by the United States of the task of dealing with the Soviet navy, and the expansion of our Navy which is necessary to take on that task.

Until these questions are answered, I see little justification in the early-phase reinforcement requirement, and less in moves to return to a draft to support that requirement.

Looking at the long-term requirement to be prepared for the (unlikely) eventuality of a European war lasting many months, a draft only makes sense if we can equip the troops we would be drafting. The Department of Defense could draft 650,000 men within 180 days after mobilization, but could it equip them? A modern Army requires not just rifles, but many pieces of complex equipment, which we today produce only at very limited rates: communications and other complex electronic equipment, air defense and other battlefield missile systems, armored fighting vehicles, etc. In 1941, such equipment was far simpler, and it was possible to raise production rates quickly, but that is no longer the case today. It is even less true for other services: modern supersonic fighters and warships are produced only at a low rate, and to raise that rate substantially would be both difficult and slow. I see little point in planning to draft masses of men we will not be able to equip.

Neither the early-phase reinforcement requirement nor the requirement to hedge against the possibility of a long war appear to justify the mobilization base arguments put forward by the proponents of registration, much less arguments for a draft. Yet these unjustifiable requirements not only serve as arguments in the Senate for registration, they also contribute, along with the firepower/attrition doctrine, to our current large division slice. The Army's training base is designed to expand the Army in wartime by training draftees. If we recognized that the Nation in Arms concept is no longer relevant to our real needs and restructured the Army's personnel and training system accordingly, much of the current training base could be transformed into combat units. This action would permit us to reduce the total Army division "slice" and thus our overall manpower requirement.

The third false premise is that the United States should view itself as predominantly a major land power. In fact, we are by nature a sea power, not a land power. Land forces inherently require a large quantity of manpower; most of our significant current and projected recruiting shortfalls are in the Army. In contrast, naval forces are capital intensive. As I stated in the White Paper on Defense, which I co-authored with former Senator Robert Taft, Jr., "because we can match our potential opponents only through qualitative superiority, it is of critical importance for us to concentrate our defense expenditures in those areas, where, out of each defense dollar, the minimum goes for manpower and the maximum is available for capital expenditure * * * Expenditures for land forces fail to meet this requirement: out of each dollar going to the Army, 59 percent must be spent for manpower costs; out of each dollar of naval expenditures, only 33 percent is for manpower."

In 1964, the Navy had 917 ships in the active fleet, compared to 462 today. But it had only 143,000 more personnel. The ability of a Navy to support 100 percent more ships with only 27 percent more people shows that a shift from the current Continental Strategy to a Maritime Strategy would enable us to reduce substantially our requirement for military manpower. A larger and more powerful Navy would also provide a military force better suited to our island geography, our world-wide economic interests, and even to the defense of NATO. Our European allies can generate the land forces NATO needs, and they can do so economically by making better use of their reservists. But only the United States can counter the growing Soviet navy.

The coming shortage of military manpower adds an argument to the already powerful battery favoring a Maritime Strategy and its logical accompaniment, a smaller Army and a more powerful Navy.

Thus, a return to a draft would merely prop up our current inefficient Army force structure, the outdated concept of the "Nation in Arms," and the incorrect Continental Strategy. In doing so, it would weaken, not strengthen, us militarily. We can improve our military capabilities and reduce our manpower requirements by undertaking needed reforms in our strategy, doctrine and force structure.

The arguments raised here, of course, relate directly to our military force structure. There are other serious concerns about such a major step as returning to the draft, however.

Options to the draft have been proposed. Before taking a major step toward returning to the draft—which registration would be—those options should be explored and discussed by Congress and the American people. Particularly the alternative of some type of universal service for young people of sound mind and body might be preferable to the old style draft. We simply have not given serious enough consideration to all the consequences to begin the return to the draft at this time.

It is unfortunate that we must wait for demographic realities to compel changes which should have come long ago on national strategic grounds. But if the effect of the coming shortage of military-age people is to cause us finally to shift our emphasis from ground to naval forces and to reform the Army, then it will be beneficial, not threatening, to our national defense.

GARY HART.

ADDITIONAL VIEWS OF MR. EXON

Should a national emergency occur tomorrow, this nation's mobilization capability would not provide the needed manpower in a timely fashion.

The personnel shortages in our active and reserve forces are well-documented in this Committee report and need no further elaboration. I am gravely concerned over the ability of the United States to respond to such an unanticipated emergency and intend to pursue aggressive actions to ensure that our active and reserve forces are brought up to strength and combat ready, as well as to enhance our present inadequate mobilization capability.

I oppose the Committee's action, not due to any lack of concern over the readiness of our military manpower to meet any emergency, but due to a difference in the approach proposed to rectify the problem. The Department of Defense opposes registration at this time. In a recent letter, Secretary of Defense Harold Brown said his official view "is that the critical step toward achieving our goals is not immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in case of mobilization actually to process them, through the Selective Service System."

The authority for registration is contained in current law. Registration was terminated by the President in 1975 and may be reinstated by the President at any time without further action by the Congress.

Neither the President, our Commander-in-Chief, nor the Secretary of Defense has requested this action. The lack of request from these officials with prime responsibility in this area has rarely in the past and should not now be the prime reason for Congressional action or inaction. However, a major action such as resumption of peacetime registration needs to be considered fully by both the executive and legislative branches as well as by the American people as a whole. This has not been done.

Our mobilization capability is indeed inadequate and positive steps need to be taken immediately to ensure that the Selective Service System can meet the Defense Department's revised requirement for inductees to report to training centers in time of emergency. Present needs are for the first inductee to arrive at the assigned training center at M+ 30 (30 days after a mobilization is declared). Our present capability cannot deliver the first inductee until M+110. This situation needs to be corrected in short order.

Improvement of the Selective Service System at minimal cost is one way to achieve this end without instituting continuous face-to-face registration. Selective Service Acting Director Robert Shuck says that with a slight increase in funding, his agency could meet the Pentagon's most stringent mobilization requirement, without prior registration. In recent letters, he said preliminary results of a computerization test appear to confirm that conclusion. This option needs to be fully explored. Mr. Shuck has said of registration, "I don't need it."

There are other significant unanswered questions about our mobilization potential, particularly with regard to the ability of the Army's training base to absorb quickly a major influx of new personnel. Registration will provide no additional benefit to our mobilization capacity, without a current capability to expand within the training base because of insufficient training personnel, barracks spaces, weapons, ammunition and uniforms. I recently joined with Senator William S. Cohen in calling for, a) giving the Selective Service System the resources it needs to accomplish its mission without registration; b) insisting that the President give the Congress a full, accurate reading of our mobilization needs and our capacity for meeting those needs; c) taking immediate steps to ensure that our training base can absorb additional new inductees; and, d) asking the Defense Department what reasonable, cost-effective incentives it needs to maintain a strong active force and bolster the reserves, while at the same time pressing for better military management.

I believe that these steps should be taken before moving ahead prematurely with an immediate return to continuous face-to-face registration in peacetime.

Reinstitution of registration is the first step toward resuming the draft itself, which may not be necessary at this juncture. Registration in itself will not correct current critical manpower shortages in the active and reserve forces, which is the main problem with our present mobilization deficiency. While much needs to be done in the way of improvement, I am not yet ready to "give up" on the All-Volunteer Force concept.

This bill does not propose to require registration until January 1, 1981. The President has the authority to act now if necessary. Additionally, in the absence of a request from the President, the Secretary of Defense or the Director of the Selective Service System, such action seems unlikely to succeed. Until the leadership in the executive branch and the Congress proceed to a better level of understanding on our overall military manpower needs, this measure appears premature.

In short, the federal government as a whole needs to get its act together before taking such a major step.

J. JAMES EXON.

MINORITY VIEWS OF MR. LEVIN

I oppose the bill to re-institute registration under the Military Selective Service Act because the measure is unnecessary, premature and inequitable to both men and women. It also rests on insufficient examination of our mobilization and Selective Service requirements.

While many people, including myself, believe that we would have a mobilization problem in an emergency, the case has not been made out for *registration* as the only or best way of solving that problem.

For instance, the Secretary of Defense has written in a letter dated June 8, 1979, to Senator Cohen that "We are concerned that the Selective Service System cannot now meet the thirty-day requirement."

But that same Secretary of Defense, in that same letter, clearly opposes registration in the following words: "That circumstance does not, however, lead to the conclusion that peacetime registration is necessary. In the near term, we think that the proper course of action is to enhance the standby ability of the Selective Service System, including its computer resources, its staffing and its planning."

The Secretary of Defense noted in that same letter that Acting Selective Service Director Robert E. Shuck "is confident that, if adequate funds are provided by the Congress, the Selective Service System will be able to develop the capability to meet our requirements."

While the Armed Services Committee and its Manpower and Personnel Subcommittee, in split votes, voted for registration, their actions were flawed by a failure to call as witnesses Secretary Brown or Acting Director Shuck to testify relative to the Administration's conclusion that our mobilization problem can be solved by enhanced computer capability.

Nor did the Manpower and Personnel Subcommittee or the Armed Services Committee make a specific analysis of the costs of enhanced computer capability, staffing and planning, as compared to the costs of a registration system. It is also significant that the Committee failed to make a specific analysis of the relative advantages and disadvantages of the different mobilization times under the two approaches. In this regard, the Secretary of Defense said in that same letter that the need is to "begin receiving inductees . . . beginning thirty days after a decision to mobilize" and that "the Selective Service System will be able to develop the capability to meet our requirements" according to Acting Director Shuck "if adequate funds are provided by the Congress."

The registration bill would remove from the President the option and the power he now has to institute registration. This bill would, instead, mandate the President to do so.

Thus the bill would undertake the major step of mandatory registration, without giving the President the chance to prove that his alternative approach would work.

The President has asked for this chance in the Fiscal 1979 and 1980 budgets. To require registration before giving the President the tools which he believes would work adequately to avoid it is a mistake this Senate need not, and should not, make.

Congress should promptly provide the funding needed by the President so that he can fully explore the alternative which the Secretary of Defense and the Acting Director of Selective Service say will work to avoid a registration system.

Also, before considering the reinstitution of registration under a standby draft system characterized by unfairness to the less-affluent and less educated segments of our citizenry, we should close the "loopholes" in the system which have permitted these inequities.

We should no longer allow a standby draft system which permits the rich and well-educated of our country to avoid military service through deferments and exemptions and which forces, thereby, the brunt of the nation's defense to be borne by the disadvantaged.

The Committee, in its own report on this legislation, recognizes the problems of unfairness inherent in the present law by stating:

"However, the committee believes that the categories and standards for exemption and deferment and the procedures under current law must be completely reviewed. The Selective Service System should be equitable and fair and the committee feels that deferment and exemption categories should be limited to conscientious objectors, those morally, mentally and physically unfit and only such other categories that the President believes are necessary in the national interest."

Indeed, this is why, in part, the Committee bill suspends classification for one year after registration is re-instituted and requires the President to recommend any changes to the registration/classification procedures and to certify that the act is equitable by July 1, 1981.

The Selective Service System should be revamped during which time the enhanced data processing option can be fully tested. In the meantime, we should avoid the spectre of the outdated and unfair draft system which is one reason registration is so disturbing to people across this land.

Finally, in focusing their attention on the mobilization dilemma, and in suggesting registration as the solution to it, the Committee has attempted to address certain manpower problems which affect our armed forces, such as the shortages in selected critical skills areas and shortfalls in the reserves.

Yet even proponents of the bill concede that there is no factual basis for a claim that re-instituting registration will help eliminate these shortages and shortfalls.

Thus, the Committee's recommendation to re-institute registration is inappropriate on these grounds, also.

CARL LEVIN.

MINORITY VIEWS OF MR. COHEN

Too many questions remain unanswered for members of this committee and of the Senate to be expected to make an informed, intelligent decision on whether reinstitution of Selective Service registration is in fact needed to meet the nation's mobilization requirements. An adequate record simply has not been built.

I am not unalterably opposed to registration, but I could not in good conscience support this bill or this report's conclusions. The case has not been effectively made that registration is needed at this point, or that it would truly speed the delivery of battlefield replacements in time of combat.

The President of the United States, as Commander in Chief, has the authority under current draft law to register every male citizen who is 18 to 26 years of age. President Ford suspended registration in 1975. President Carter could restore registration and classification today if he felt they are needed to maintain a strong defense posture.

Yet, I am told that the President doesn't have a position on this question. He is the one who has the information telling him whether we need registration, classification and even renewed induction authority. We can only conclude from the fact that he hasn't reinstituted registration that he apparently does not feel it is justified.

If in fact our armed forces are seriously deficient and the President, in spite of the vast resources available to him to make such a determination, refuses to take appropriate action to correct the situation, then he would be abdicating his highest responsibility as Commander in Chief and as President of our nation.

I also feel it is imperative that the Senate get the official Defense Department position before it acts. Defense Secretary Brown, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics Robert Pirie, and Army Secretary Clifford Alexander should all testify before Senate action to tell us of the true mobilization need and capability and of their view on resumption of registration.

The committee has the responsibility to educate Congress on this issue. If there are conflicting statements from the Administration, we should clarify what the official position is and what the facts are. If officials say that they are able to accomplish certain goals, we should have them tell us exactly how they intend to do so.

Among the questions I feel have not been answered adequately are these:

> Why is registration action needed by Congress when the President has the authority to reinstitute it at any time, if he feels the need exists?
>
> Why is it needed when Selective Service System Director Shuck says, and preliminary results of a computerization test seem to bear him out, that his agency can meet DOD's accelerated mobilization requirement without registration?

How can Congress go from deep standby to registration, tak
ing away the President's discretionary authority, when it refuse
to give Selective Service the small funding increase it says i
needs to meet DOD's most stringent standard?

If the Defense Department lacks the capability at this tim
to train even a large influx of volunteers, as I have been tol
let alone large numbers of conscripts, should we not first concen
trate on improving the training base so that there will be sufficie
equipment, personnel, and facilities in place if we do need
mobilize?

While some studies show registration might save us 15 da
at mobilization, are there any studies that show any time will
saved by registering at this time in view of the condition of t
training base? Don't we have to deal with the training be
problem first?

If Selective Service can meet the accelerated mobilization sche
ule without registration, how many days beyond that would re
istration save?

How can the committee and the Congress be expected to ma
an informed, thoughtful decision when Selective Service Dir
tor Shuck hasn't been given the chance to testify on the recen
completed test, the President hasn't given his position on t
despite being the one with authority to reinstitute registrati
Pentagon officials have given conflicting statements, and train
command officials haven't provided answers on their ability
train large numbers of recruits?

What assets would be required to police adequately the
year-old population to insure compliance with registration? W
is the likelihood that substantial prosecutorial and investiga
assets would be involved in Selective Service prosecutions?

Can we assure the public that registration is not being im
mented simply as a prelude for the draft's return? Can we as
the public that Congress will exert every effort to supply
Department of Defense with reasonable, cost-effective incent
needed for the continued success of the AVF?

Along with these questions are a number of others that have
been answered about the active and reserve forces and manpo
management policies relating to them. I am not confident tha
have to this point defined any real need for registration to be resu

We should not go from nothing to registration. If Selective Se
says it can meet our mobilization needs without registration but
a slight increase in funding, it should be given the opportunity
so. The committee hasn't done the job of educating the rest of
gress so that Selective Service can attempt to accomplish its mobi
tion goal without registration and its economic and social costs.

Director Shuck has outlined in two letters to me the specifi
his agency's plan, through improved computerization, to achiev
DOD mobilization requirement for the first inductee in 30 days, 10
in 60 days. and 650,000 in 180 days. He maintains that he can de
the capability in 8 to 9 months if contracted out and in 18
months in-house with an interim plan to operate until the full
bility would be on hand. All he needs, he says, is $1.7 millio
fiscal year 1979 supplemental and $9.8 million for fiscal year

This seems a small investment in a strong mobilization capability, and a much more reasonable and sensible course than mandating registration. Based on the conflicting testimony that has been presented to this committee and in light of the many issues that have not been adequately resolved, it is my conclusion that the committee is not moving in the wisest direction in terms of our defense capability.

We should give Selective Service the resources it needs to accomplish its mission without registration. We should give the Defense Department reasonable, cost-effective incentives needed to maintain our existing strong active force and to strengthen our reserve forces. We should take immediate steps to build up the Pentagon's training base. And we should continue to press the White House and the Defense Department both for their official view on the issue of registration and for their official assessment of the status of our defense posture and our mobilization capability.

Once these steps have been taken, then we will be in a position to make a reasoned judgment. At this time, we are not. A decision of such importance should not be based upon an incomplete record or made under the emotionally charged atmosphere of crisis conditions.

A second concern of mine deals with the exclusion of women from registration under terms of the bill. Though I voted with the majority in retaining the measure's language on this, since it amends the existing Selective Service Act (which specifically refers to males), I feel there are constitutional considerations that cannot be ignored. I am concerned, especially with increased use of women by the services and by the recent decision by the Pentagon to bring enlistment eligibility criteria for women into conformance with those for men, that an exclusion on the basis of sex cannot be sustained if it is subject to legal challenge. We should obtain the legal views on the Defense Department as to whether we risk undermining the constitutionality of the draft if there is a failure to include women in registration.

Some issues should be clarified before action is taken:

> Would universal registration of men and women mean all would be grouped in one large pool of eligibles, or could two pools be established?
>
> Would women have to be drafted in equal numbers with their male counterparts if conscription were required for mobilization?
>
> With women presently excluded from only a small number of combat related job specialities, could they be drafted for those positions for which they are presently eligible?
>
> If women cannot be excluded from volunteering for military service, can they be excluded from voluntarily registering, should they so choose?
>
> Would legal challenges on the part of men to an exclusionary Selective Service registration law threaten any registration law that would be approved and would they jeopardize our ability to mobilize in time of emergency?
>
> If the Defense Department proposes, and Congress approves, a doctor draft that includes women, would there be a problem if the draft law for the enlisted ranks were to exclude them?

These and other questions have to be dealt with before any final determination is made.

WILLIAM S. COHEN.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standin Rules of the Senate, changes in existing law proposed to be made b the bill are shown as follows: Existing law to be omitted is enclose in black brackets, new matter is printed in italic, and existing law i which no change is proposed is shown in roman.

TITLE 10, UNITED STATES CODE—ARMED SERVICES

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Subtitle A—General Military Law

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CHAPTER 4.—DEPARTMENT OF DEFENSE

* * * * * * *

§ 135. Under Secretaries of Defense: appointment; powers and duties; precedence

(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) [The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.] *The Under Secretary of Defense for Policy shall supervise manpower mobilization planning in the Department of Defense and shall perform such other duties and exercise such other powers as the Secretary of Defense may prescribe.* The Under Secretary of Defense for Research and Engineering shall perform such duties relating to research and engineering as the Secretary of Defense may prescribe, including—

(1) being the principal adviser to the Secretary on scientific and technical matters;

(2) supervising all research and engineering activities in the Department of Defense; and

(3) directing, controlling, assigning, and reassigning research and engineering activities that the Secretary considers need centralized management.

(c) The Under Secretary of Defense for Policy takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments. The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.

* * * * * * *

§138. Secretary of Defense: Annual Authorization of appropriations for armed forces

* * * * * * *

(c)(1) Congress shall authorize the end strength as of the end of each fiscal year for active-duty personnel for each component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the active-duty personnel of any component of the armed forces unless the end strength for active-duty personnel of that component for that fiscal year has been authorized by law.

(2) Congress shall authorize the end strength as of the end of each fiscal year for civilian personnel for each component of the Department of Defense. No funds may be appropriated for any fiscal year to or for the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

(3)*(A)* The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time. The justification and explanation shall specify in detail for all military forces, including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit, the—

[(A)]*(i)* unit mission and capability;

[(B)]*(ii)* strategy which the unit supports; and

[(C)]*(iii)* area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

[It shall also include] *(B) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph* a detailed discussion of (i) the manpower required for support and overhead functions within the armed forces and the Department of Defense, (ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies, and (iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions. Such report shall also identify, define and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this

base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

(C) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph an assessment of the Nation's capability of mobilizing the military manpower that may be needed to meet national security requirements during periods of national emergency. In making such assessment, the Secretary of Defense shall determine the Nation's capability of mobilizing the active military forces, selected reserve forces, other reserve forces personnel, retired military personnel, and persons not members of the armed forces and shall include in such assessment a statement and explanation regarding the Nation's capabilities for mobilizing each of the personnel categories named.

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MILITARY SELECTIVE SERVICE ACT

(85 Stat. 348; 50 U.S.C. App. 451 et seq.)

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SEC. 3. (*a*) Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

(b) The President shall commence registration of citizens and other persons in accordance with the provisions of this title on January 2, 1980. The President may suspend the registration of persons under this title only for the purpose of revising existing registration procedures or instituting new registration procedures, but may not suspend or otherwise discontinue the registration of persons under this title for a period of more than ninety consecutive days. In no event may the President suspend or otherwise discontinue registration under this title more than once in any one-year period.

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96th Congress } SENATE { Report
1st Session } { No. 96–227

FINANCE COMMITTEE ALLOCATION OF BUDGET TOTALS FISCAL YEARS 1979 AND 1980

June 19 (legislative day, May 21), 1979.—Ordered to be printed

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**Mr. Long, from the Committee on Finance,
submitted the following**

REPORT

(Pursuant to section 302(b) of the Congressional Budget Act of 1974)

House Concurrent Resolution 107, adopted by the Congress on May 24, 1979, establishes a first budget resolution for fiscal year 1980 and revises the second budget resolution for fiscal year 1979. This report by the Committee on Finance on the allocation among programs under its jurisdiction of the funding levels contained in House Concurrent Resolution 107 for these 2 fiscal years is submitted pursuant to section 302(b) of the Congressional Budget Act of 1974. The statute requires each committee to report its allocation, among programs or subcommittees, of the budget authority and outlay totals designated as applicable to the committee in the conference committee report on the budget resolution. The statute also requires that the allocations be subdivided between "controllable amounts and all other amounts."

The conference committee report on House Concurrent Resolution 107, as modified by a letter of June 4, 1979, from the Senate Committee on the Budget, designates the amounts shown in the following table as representing that part of the total budget authority and outlays in the resolution which is controlled by legislation under the jurisdiction of the Committee on Finance:

[In billions of dollars]

	Budget authority	Outlays
Fiscal 1979	254.6	243.1
Fiscal 1980	279.4	270.1

The Budget Act does not provide a definition of the term "controllable amount." For purposes of this report, the committee shows as "controllable amounts" those amounts which would result from new legislation and as "all other amounts" those amounts which would result from legislation previously enacted or which were assumed in establishing the budget resolution totals to result from legislative changes which are not within Finance Committee jurisdiction.

This report is submitted by the Committee on Finance as a part of the congressional budget process established by the Congressional Budget Act of 1974 and not as a statement of specific legislative decisions. The amounts shown in tables 1 and 2 accommodate the legislative actions taken by the committee up to the present including the impact of certain legislation which has been passed by the Senate and is awaiting House concurrence. In its consideration of particular legislative proposals, the committee may find it appropriate to recommend funding not reflected in these tables. If it does so, the committee will undertake to recommend other changes in the law which will achieve the same overall budgetary results.

The committee notes that the allocations shown in table 2 for fiscal year 1980 would require a very substantial degree of savings as a result of new legislation. There are several reasons why the achievement of these savings could prove quite difficult. For example, it is understood that a substantial reduction has been made in the estimated savings which could be achieved by certain legislative proposals related to controlling the cost of health programs. Moreover, pending reestimates of the economic situation may significantly affect the estimated costs of several programs reflected in table 2. Further, it appears that the House committees with jurisdiction over the same programs as the Committee on Finance have been informed that a much lower level of savings in these programs is required under the assumptions of the House budget conferees. In view of the uncertainty created by all of these factors, the allocations made in this report have been set forth in broad program categories and with an understanding that revisions may have to be made from time to time as the committee deals with particular legislative proposals in an attempt to operate within the budgetary framework established by the first budget resolution.

TABLE 1.—FINANCE COMMITTEE BUDGET ALLOCATIONS FOR FISCAL YEAR 1979

[In billions of dollars]

Program	Budget authority			Outlays		
	Controllable amounts	All other amounts	Total	Controllable amounts	All other amounts	Tota
Income maintenance	(1)	132.9	132.9	(1)	124.9	[illegible]
Health	0	44.0	44.0	0	40.6	[illegible]
Social services	(1)	3.8	3.8	(1)	3.8	[illegible]
Revenue sharing	0	7.1	7.1	0	7.1	[illegible]
Interest on the public debt	0	59.6	59.6	0	59.6	[illegible]
Other	0	.3	.3	0	.3	[illegible]
Accounting adjustment	0	6.8	6.8	0	6.8	[illegible]
Total	(1)	254.6	254.6	(1)	243.1	[illegible]

[1] Less than $50,000,000.

TABLE 2.—FINANCE COMMITTEE BUDGET ALLOCATIONS FOR FISCAL YEAR 1980

[In billions of dollars]

Program	Budget authority			Outlays		
	Controllable amounts	All other amounts	Total	Controllable amounts	All other amounts	Total
Income maintenance	−0.3	148.9	148.6	−0.6	144.8	144.2
Health	−.2	48.8	48.6	−1.8	45.7	43.9
Social services	+.4	3.4	3.8	+.4	3.3	3.7
Revenue sharing	−.4	7.1	6.7	−.4	7.1	6.7
Interest on the public debt	−.4	65.3	64.9	−.4	65.3	64.9
Other	0	.3	.3	0	.3	.3
Accounting adjustment	−.4	6.8	6.4	−.4	6.8	6.4
Total	−1.3	280.7	279.4	−3.2	273.3	270.1

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S.R. 227

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96th Congress } SENATE { Report
1st Session }   { No. 96–228

ALLOCATION TO SUBCOMMITTEES OF BUDGET TOTALS

from the

THIRD CONCURRENT RESOLUTION

for

FISCAL YEAR 1979

Submitted Pursuant to Section 302 of the
Congressional Budget Act of 1974

BY THE

COMMITTEE ON APPROPRIATIONS

U.S. Senate

June 19 (legislative day, May 21), 1979.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-228

ALLOCATION TO SUBCOMMITTEES OF BUDGET TOTALS FROM THE THIRD CONCURRENT RESOLUTION, FISCAL YEAR 1979

JUNE 19 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. MAGNUSON, from the Committee on Appropriations, submitted the following

REPORT

The Committee on Appropriations submits the following report in compliance with sec. 302(b) of the Congressional Budget Act of 1974.

The Budget Act requires that as soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations shall submit to the Senate a report subdividing among its subcommittees the allocation of budget outlays and new budget authority allocated to the Committee in the joint explanatory statement accompanying the conference report on such concurrent resolution.

AMOUNT CONTAINED IN BUDGET RESOLUTION

The conference report on the Third Concurrent Resolution on the Budget for fiscal year 1979 (S. Rept. 96–192) provides total budget authority in the amount of $559.2 billion of which $353.6 billion is allocated to the Senate Committee on Appropriations. With respect to outlays, the conference agreement provides $494.45 billion of which $313.1 billion is allocated to the Senate Committee on Appropriations.

ALLOCATION TO SUBCOMMITTEES

In developing its recommended allocations to the subcommittees, the Committee took into account:

(1) Supplemental requests for fiscal year 1979 appropriations;

(2) Current assessment of later appropriations requirements;

(3) Recommendations deriving from adoption of the Third Concurrent Resolution.

Following these guidelines, the committee has subdivided budge authority and outlays among its subcommittees as follows:

SUBCOMMITTEE BUDGET TARGETS FOR FISCAL YEAR 1979

[In billions of dollars]

Subcommittee and chairman	Budget authority	Outlays
Agriculture, Rural Development, and Related Agencies (Eagleton)	22.1	15.0
Defense (Stennis)	120.5	108.8
District of Columbia (Leahy)	0.3	0.4
Energy and Water Development (Johnston)	10.4	9.7
Foreign Operations (Inouye)	10.9	5.8
HUD-Independent Agencies (Proxmire)	69.2	45.9
Interior (Byrd)	11.8	9.4
Labor-HEW (Magnuson)	74.4	75.9
Legislative (Sasser)	1.1	1.1
Military Construction (Huddleston)	3.9	3.2
State, Justice, Commerce (Hollings)	9.7	12.0
Transportation (Bayh)	9.4	16.2
Treasury, Postal Service (Chiles)	9.3	9.1
Contingencies:		
Pay raise	0.6	0.6
Total	353.6	313.1

CONTROLLABILITY

The Congressional Budget Act further specifies that the Committe must divide its allocations of budget authority and outlays t subcommittees between uncontrollable and other amounts. Th following table is submitted in accordance with this requirment:

DIVISION OF ALLOCATIONS FOR FISCAL YEAR 1979

[In billions of dollars]

Subcommittee	Budget authority	Outla
Agriculture, Rural Development, and Related Agencies:		
Mandatory under existing law	14.7	10.
Other	7.4	4
Total	22.1	15.

DIVISION OF ALLOCATIONS FOR FISCAL YEAR 1979—continued

[In billions of dollars]

Subcommittee	Budget authority	Outlays
Defense:		
Mandatory under existing law	10.3	39.5
Other	110.2	69.3
Total	120.5	108.8
District of Columbia:		
Mandatory under existing law		
Other	0.3	0.4
Total	0.3	0.4
Energy and Water Development:		
Mandatory under existing law		4.8
Other	10.4	4.9
Total	10.4	9.7
Foreign Operations:		
Mandatory under existing law	(1)	2.9
Other	10.9	2.9
Total	10.9	5.8
HUD-Independent Agencies:		
Mandatory under existing law	21.7	35.7
Other	47.5	10.2
Total	69.2	45.9
Interior:		
Mandatory under existing law	0.2	5.5
Other	11.6	3.9
Total	11.8	9.4
Labor-Health, Education, and Welfare:		
Mandatory under existing law	38.4	53.8
Other	36.0	22.1
Total	74.4	75.9

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[1] The $24.820 million proposed fiscal year 1979 contribution to the Foreign Service Retirement and Disability Fund, for purposes of this report, is considered by the Committee to be mandatory. However, it is not reflected, since it is less than $50 million.

DIVISION OF ALLOCATIONS FOR FISCAL YEAR 1979—continued

[In billions of dollars]

Subcommittee	Budget authority	Outla
Legislative:		
Mandatory under existing law	....	0.
Other	1.1	
Total	1.1	1.1
Military Construction:		
Mandatory under existing law	....	2.
Other	3.9	0.
Total	3.9	3.
State-Justice-Commerce-Judiciary:		
Mandatory under existing law	0.4	5.
Other	9.3	6.
Total	9.7	12.
Transportation:		
Mandatory under existing law	0.4	11.
Other	9.0	4.
Total	9.4	16.
Treasury, Postal Service, and General Government:		
Mandatory under existing law	4.5	5.
Other	4.8	4.
Total	9.3	9.
Undistributed at present:		
Mandatory under existing law	....	....
Other	0.6	0
Total	0.6	0
Grand Total:		
Mandatory under existing law	90.6	177
Other	263.0	135
Total	353.6	313

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96th Congress
1st Session

SENATE

Report
No. 96–229

ALLOCATION TO SUBCOMMITTEES OF BUDGET TOTALS

from the

FIRST CONCURRENT RESOLUTION

for

FISCAL YEAR 1980

Submitted Pursuant to Section 302 of the
Congressional Budget Act of 1974

BY THE

COMMITTEE ON APPROPRIATIONS

U.S. Senate

June 19 (legislative day, May 21), 1979.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

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6TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–229

ALLOCATION TO SUBCOMMITTEES OF BUDGET TOTALS FROM THE FIRST CONCURRENT RESOLUTION, FISCAL YEAR 1980

JUNE 19 (legislative day, MAY 21), 1979.—Ordered to be printed

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Mr. MAGNUSON, from the Committee on Appropriations, submitted the following

REPORT

The Committee on Appropriations submits the following report in compliance with sec. 302(b) of the Congressional Budget Act of 1974.

The Budget Act requires that as soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations shall submit to the Senate a report subdividing among its subcommittees the allocation of budget outlays and new budget authority allocated to the Committee in the joint explanatory statement accompanying the conference report on such concurrent resolution.

AMOUNT CONTAINED IN BUDGET RESOLUTION

The conference report on the First Concurrent Resolution on the Budget for fiscal year 1980 (S. Rept. 96–192) provides total budget authority in the amount of $604.05 billion of which $357.9 billion is allocated to the Senate Committee on Appropriations. With respect to outlays, the conference agreement provides $532.0 billion of which $329.8 billion is allocated to the Senate Committee on Appropriations.

ALLOCATION TO SUBCOMMITTEES

In developing its recommended allocations to the subcommittees, the Committee took into account:

(1) Committee recommendations contained in the March 15 report;

(2) Current assessment of later appropriations requirements;

(3) Recommendations deriving from adoption of the First Concurrent Resolution.

Following these guidelines, the Committee has subdivided budg authority and outlays among its subcommittees as follows:

SUBCOMMITTEE BUDGET TARGETS FOR FISCAL YEAR 1980

[In billions of dollars]

Subcommittee and chairman	Budget authority	Outlay
Agriculture, Rural Development, and Related Agencies (Eagleton)	20.5	16.7
Defense (Stennis)	130.1	118.5
District of Columbia (Leahy)	0.5	0.5
Energy and Water Development (Johnston)	11.1	9.7
Foreign Operations (Inouye)	8.2	6.4
HUD-Independent Agencies (Proxmire)	71.4	48.5
Interior (Byrd)	8.0	9.4
Labor-HEW (Magnuson)	74.6	79.0
Legislative (Sasser)	1.2	1.1
Military Construction (Huddleston)	3.9	3.5
State, Justice, Commerce (Hollings)	9.8	10.5
Transportation (Bayh)	9.3	16.8
Treasury, Postal Service (Chiles)	9.3	9.2
Total	357.9	329.8

CONTROLLABILITY

The Congressional Budget Act further specifies that the Committee must divide its allocations of budget authority and outlays to subcommittees between uncontrollable and other amounts. The following table is submitted in accordance with this requirment:

DIVISION OF ALLOCATIONS FOR FISCAL YEAR 1980

[In billions of dollars]

Subcommittee	Budget authority	Outlays
Agriculture, Rural Development, and Related Agencies:		
Mandatory under existing law	8.5	11.2
Other	12.0	5.5
Total	20.5	16.7
Defense:		
Mandatory under existing law	11.6	44.1
Other	118.5	74.4
Total	130.1	118.5
District of Columbia:		
Mandatory under existing law		
Other	0.5	0.5
Total	0.5	0.5
Energy and Water Development:		
Mandatory under existing law		4.0
Other	11.1	5.7
Total	11.1	9.7
Foreign Operations:		
Mandatory under existing law	(1)	3.3
Other	8.2	3.1
Total	8.2	6.4
HUD-Independent Agencies:		
Mandatory under existing law	20.4	36.4
Other	51.0	12.1
Total	71.4	48.5
Interior:		
Mandatory under existing law	0.1	5.2
Other	7.9	4.2
Total	8.0	9.4

[1] The $25.676 million proposed for fiscal year 1980 contribution to the Foreign Service Retirement and Disability Fund, for purposes of this report, is considered mandatory by the Committee. However, it is not reflected, since it is less than $50 million.

DIVISION OF ALLOCATIONS FOR FISCAL YEAR 1980—continued

[In billions of dollars]

Subcommittee	Budget authority	Outlays
Labor-Health, Education, and Welfare:		
Mandatory under existing law	41.8	59.7
Other	32.8	19.3
Total	74.6	79.0
Legislative:		
Mandatory under existing law	0.6	0.7
Other	.6	.4
Total	1.2	1.1
Military Construction:		
Mandatory under existing law		2.3
Other	3.9	1.2
Total	3.9	3.5
State-Justice-Commerce-Judiciary:		
Mandatory under existing law	0.5	4.0
Other	9.3	6.5
Total	9.8	10.5
Transportation:		
Mandatory under existing law	0.3	11.9
Other	9.0	4.9
Total	9.3	16.8
Treasury, Postal Service, and General Government:		
Mandatory under existing law	3.0	3.3
Other	6.3	5.9
Total	9.3	9.2
Grand Total:		
Mandatory under existing law	86.8	186.1
Other	271.1	143.7
Total	357.9	329.8

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Calendar No. 241

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-230

BANKRUPTCY CODE AMENDMENTS RELATING TO NONDISCHARGEABILITY

JUNE 21, 1979.—Ordered to be printed

Mr. DECONCINI, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 2807]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2807) to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States, having considered the same, reports favorably thereon with amendments, and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of the bill is to provide equal treatment for student loans in the context of bankruptcy nondischargeability proceedings.

STATEMENT

Public Law 95-598, "An Act to establish a uniform Law on the Subject of Bankruptcies", created a new title 11 of the United States Code, effective October 1, 1979. New section 11 U.S.C. 523(a)(8) provides that a debt for an education loan owing to a governmental unit or to a nonprofit institution of higher education may not be discharged in bankruptcy unless more than five years have elapsed since the loan became due or failure to discharge the debt would result in an undue hardship to the borrower's dependents. This basically continued existing law found in the Higher Education Act Amendments of 1976, but inadvertently was not as broad as the law it was designed to replace.

Because new 11 U.S.C. 523(a)(8) applies only to debts for educational loans owing to a governmental unit or to a nonprofit institution of higher education, it has a very uneven effect upon the student loan programs administered by the Department of Health, Education, and Welfare. For example, National Direct Student Loan (NDSL) funds are administered by both nonprofit and profit-making institutions of higher education. Under the new law, a student who obtained an NDSL loan from a profit-making institution of higher education would be free to have that loan discharged in bankruptcy. In contrast, a student who obtained an NDSL loan from a nonprofit institution of higher education would be subject to the prohibitions contained in the new law.

The application of new 11 U.S.C. 523(a)(8) to loans made under the Guaranteed Student Loan (GSL) and Health Education Assistance Loan (HEAL) programs would produce even more anomalous results. If the borrower of a GSL or HEAL loan filed a bankruptcy petition and the lender then holding the loan was a bank, savings and loan association, credit union, insurance company, pension fund, the Student Loan Marketing Association or, in the case of the GSL loan a profit-making institution of higher education, the loan would be fully dischargeable. However, if the lender holding the loan was a nonprofit institution of higher education or a State agency, the loan would be subject to the prohibitions contained in the new law.

Different, but equally inconsistent results would occur if the student had defaulted on the GSL loan, and the lender had filed a default claim and assigned the loan to its insurer, before the commencement of the bankruptcy proceeding. In that case, if the insurer was the Commissioner of Education or a State guarantee agency, then the loan would be subject to the prohibitions contained in the new law regardless of the identity of the preceding holder. However, if the loan was insured by a private, nonprofit guarantee agency, then the loan would be dischargeable, also regardless of the identity of the preceding holder of the loan.

Public Law 95–598 also repealed, effective November 6, 1979, section 439A of the Higher Education Act of 1965. The gap in coverage of a prohibition on the discharge in bankruptcy of loans made under the Guaranteed Student Loan Program resulting from the early repeal of section 349A is very undesirable and totally inadvertant. Accordingly, section 1 of the bill revises the intent of section 439A to maintain the status quo until such time as 11 U.S.C. 523(a)(8) becomes effective. Section 2 provides that the amendments made by section 1 will apply to any proceeding commenced under the Bankruptcy Act during the period beginning on the date of enactment of this Act and ending October 1, 1979.

Since Federal funds provided the primary capital contributions for the NDSL loans and since Federal funds provide the reimbursement to lenders, either in whole or in part, for losses on unpaid GSL and HEAL loans, the Committee believes that all loans made under these programs would receive uniform treatment in bankruptcy. Section 3(1) of the amended bill would amend section 11 U.S.C. 523(a)(8) to apply consistently to all the student loan programs administered by HEW. The bill would not alter the protection from discharge which the present version of 11 U.S.C. 523(a)(8) aflords to educational loans made outside the auspices of Federal programs by nonprofit institutions of higher education, States and local governments.

Section 3(2) of the bill would also amend 11 U.S.C. 523(a)(8) to exclude periods of deferment from the calculation of the first five years of the repayment period. This exclusion was contained in former section 439A of the Higher Education Act of 1965, which provided for the nondischargeability in bankruptcy of loans made under the Guaranteed Student Loan Program. Loan programs typically provide periods of deferment during which a borrower's obligation to repay his loan is suspended. Using the Guaranteed Student Loan Program as an example, a student may defer repayment for an unlimited time if the student resumes study, for up to three years if the student serves in the Armed Forces, the Peace Corps or VISTA, and for up to one year if the student is unemployed. Therefore, it is possible for the first five years of the repayment period on a student's loan to run without the student having an actual repayment obligation during all of that period.

The committee believes that the long range effect of this bill will be to maintain the credibility and stability of the student loan program and assure that future generations of students will have a viable loan program available to them.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill closes the inadvertant "gap" created when the applicable section of the Higher Education Act of 1965 prohibiting discharge of student loans was repealed as of November 6, 1978, and its replacement section in title 11 was not made effective until October 1, 1979. Congress obviously did not mean to create a gap and at all times held to the principle of nondischargeability of student loans as was found in section 439A of the Higher Education Act of 1965.

Section 2 provides that the amendments made by section 1 will apply to any proceeding commenced under the Bankruptcy Act during the period beginning on the date of enactment of this Act and ending October 1, 1979.

Section 3 clarifies that any educational loan made, insured or guaranteed by a governmental unit, or made or funded in whole or in part by a governmental unit or a nonprofit institution of higher education is nondischargeable in bankruptcy for a period of five years (exclusive of any applicable suspension of the repayment period) unless it would cause an undue hardship on the debtor or dependents of the debtor.

COST ESTIMATE

The Committee believes this bill will entail no cost.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 20, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 40 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2807, a bill to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States, as ordered reported by the Senate Committee on the Judiciary, June 20, 1979. This bill adds student loans insured under title IV of the Higher Education Act to debts which may not be discharged under bankruptcy. The provision covers only proceedings commenced under the Bankruptcy Act during the remaining months of fiscal year 1979. The bill also amends Public Law 95–598 to broaden the protection from discharge to apply uniformly to loans made by both nonprofit and profit-making institutions. Provisions covering such loans were enacted as part of Public Law 95–598.

It is expected that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with rule 29.5 of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact as defined by that subsection will result from the enactment of S. 237.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law is shown in roman, matter repealed enclosed in black brackets, and new matter is printed in italic):

TITLE 11, UNITED STATES CODE

CHAPTER 3.—BANKRUPTS

Sec. 35. Dischargeability of debts—Debts not affected by discharge.

(a) A discharge in bankruptcy shall release a bankrupt from all of his provable debts, whether allowable in full or in part, except such as (1) are taxes which became legally due and owing by the bankrupt to the United States or to any State or any subdivision thereof within three years preceding bankruptcy: *Provided, however,* That a discharge in bankruptcy shall not release a bankrupt from any taxes (a) which were not assessed in any case in which the bankrupt failed to make a return required by law, (b) which were assessed within one year preceding bankruptcy in any case in which the bankrupt failed to make a return required by law, (c) which were not reported on a return made by the bankrupt and which were not assessed prior to bankruptcy by reason of a prohibition on assessment pending the exhaustion of administrative or judicial remedies available to the bankrupt, (d) with respect to which the bankrupt made a false or fraudulent return, or willfully attempted in any manner to evade or defeat, or (e) which the bankrupt has collected or withheld from others as required by the laws of the United States or any State or any subdivision thereof, but has not paid over; but a discharge shall not be a bar to any remedies available under applicable law to the United States or to any State or any subdivision thereof, against the exemption of the bankrupt allowed by law and duly set apart to him under this title: And *provided further*, That a discharge in bankruptcy shall not release or affect any tax lien; (2) are liabilities for obtaining money or property by false pretenses or false representations, or for obtaining an extension or renewal of credit in reliance upon a materially false statement in writing respecting his financial condition made or published in any manner whatsoever with intent to deceive, or for willful and malicious conversion of the property of another; (3) have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; (4) were created by his fraud, embezzlement, misappropriation or defalcation while acting as an officer or in any fiduciary capacity; (5) are for wages and commissions to the extent they are entitled to priority under subdivision (a) of section 104 of this title; (6) are due for moneys of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment; (7) are for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female or for breach of promise of marriage accompanied by seduction, or for criminal conversation; **[**or**]** (8) are liabilities for willful and malicious injuries to the person or property of another other than conversion as expected under clause (2) of this subdivision**[**.**]** *or; (9) for a loan insured or guaranteed under the authority of part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) unless (a) the discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, or (b) the discharge is granted prior to the expiration of such five-year period and the court determines that payment from future income or wealth will impose an undue hardship on the bankrupt or his dependents.*

[Note: The following change is made to Public Law 95–598, which passed on November 6, 1978 but which does not become effective until October 1, 1979.**]**

Sec. 523. Exceptions to discharge.

* * * * * * *

(a)(8) **[**to a governmental unit, or a nonprofit institution of higher education, for an educational loan,**]** *for an educational loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or a nonprofit institution of higher education*, unless—

(A) such loan becomes due before five years (*exclusive of any applicable suspension of the repayment period*) before the date of the filing of the petition; or

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96TH CONGRESS
1st Session

SENATE

REPORT
No. 96–231

REPORT OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 21, 1979.—Ordered to be printed

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

FISCAL YEAR 1979

[In millions of dollars] [1]

Function program	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
150 International affairs:				
Federal Highway Administration miscellaneous trust funds:				
Controllable				
All other (permanent appropriation)	0	1	0	0
Total function 150	0	1	0	0
250 General science, space and technology:				
National Aeronautics and Space Administrations miscellaneous trust funds:				
Controllable				
All other	0	−2	0	0
Total, function 250	0	−2	0	0
300 Natural resources and environment:				
National Oceanic and Atmospheric Administration, miscellaneous trust funds:				
Controllable				
All other (permanent appropriation)	11	11	0	0
Total, function 300	11	11	0	0
370 Commerce and housing credit:				
National Oceanic and Atnospheric Administration, promote and develop fishery products and research:				
Controllable				
All other (permanent appropriation)	12	12	0	0
Science and technological research, information products and services:				
Controllable				
All other (permanent appropriation)	20	20	0	0
Total, function 370	33	32	0	0

See footnote at end of table.

FISCAL YEAR 1979

[In millions of dollars][1]

Function program	Direct spending jurisdiction		Entitlements funded in annual appropriations acts
	Budget authority	Outlays	Budget authority
400 Transportation:			
National Highway Traffic Safety Administration, trust fund share of highway safety programs:			
Controllable			
All other (contract authority)	175	0	0
Federal Aviation Administration, grants-in-aid for airports (airport and airway trust fund)	575	0	0
Department of Commerce: Maritime Administration:			
Operating differential subsidies:			
Controllable			
All other (permanent contract authority)	306	0	0
Federal ship financing fund:			
Controllable			
All other (obligations from fund)	0	−47	0
Department of Transportation, Coast Guard retirement pay:			
Controllable			
All other (benefits under existing law)	0	0	178
St. Lawrence Seaway Development Corp.:			
Controllable			
All other	0	−5	0
Total, function 400	1,056	−52	178
600 Income Security:			
Railroad Retirement Board, regional rail transportation protective account:			
Controllable			
All other (benefits under existing law)	0	0	82
Total, function 600	0	0	82
850 General purpose fiscal assistance:			
Department of Defense: Corps of Engineers (Civil):			
Contollable			
All other (permanent appropriation)	5	6	0
Total function 850	5	6	0
Total, all functions	1,105	−3	259
Controllable	0	0	0
All other	1,105	−3	259

FISCAL YEAR 1980

Function program	Direct spending jurisdiction		Entitlements funded in annual appropriations acts
	Budget authority	Outlays	Budget authority
150 International affairs:			
Federal Highway Administration, miscellaneous trust funds:			
Controllable			
All other (permanent appropriation)	1	1	0
Total, function 150	1	1	0
300 Natural resources and environment:			
National Oceanic and Atmospheric Administration, miscellaneous trust funds:			
Controllable			
All other (permanent appropriation)	12	12	0
Total, function 300	12	12	0
370 Commerce and housing cred[illegible]:			
National Oceanic and Atmospheric Administration, promote and develop fishery products and research:			
Controllable			
All other (permanent appropriation)	23	13	0
Science and technical research, information products and services:			
Controllable			
All other (permanent appropriation)	21	21	0
Total, function 370	45	35	0

See footnote at end of table.

Function p[illegible]

Transportat[illegible]
National Hig[illegible]
share of h[illegible]
Controll[illegible]
All othe[illegible]
Federal Avia[illegible]
Department [illegible]
Operati[illegible]
Co[illegible]
All [illegible]
Federal [illegible]
Co[illegible]
All [illegible]
Department [illegible]
Fees an[illegible]
tation[illegible]
Coast Guard [illegible]
Controll[illegible]
All othe[illegible]
St. Lawrenc[illegible]
Controll[illegible]
All othe[illegible]
Total[illegible]

General pu[illegible]
Department [illegible]
Controll[illegible]
All othe[illegible]
Total[illegible]

Total[illegible]

Natural re[illegible]
National Oc[illegible]
ous trust [illegible]
Control[illegible]
All othe[illegible]
Total[illegible]

Commerce[illegible]
National Oc[illegible]
and devel[illegible]
Control[illegible]
All othe[illegible]
Science an[illegible]
services:[illegible]
Control[illegible]
All othe[illegible]
Total[illegible]

Transporta[illegible]
Department[illegible]
Offsetti[illegible]
tion [illegible]
Co[illegible]
Al[illegible]
Coast Guar[illegible]
Control[illegible]
All othe[illegible]
National Hi[illegible]
share for [illegible]
Control[illegible]
All othe[illegible]
Federal Avi[illegible]
Department[illegible]
Operati[illegible]
Co[illegible]

See footn[illegible]

FISCAL YEAR [illegible]—Continued

[In millions of dollars]

Function program	[illegible] Budget authority	[illegible]	[illegible] Budget authority	[illegible]
All other (permanent appropriation)	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]				
Controllable				
All other (obligations from fund)	[illegible]	[illegible]	[illegible]	[illegible]
St. Lawrence Seaway Development Corp.:				
Controllable				
All other	[illegible]	[illegible]	[illegible]	[illegible]
Total, function 400	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]				
[illegible]				
Controllable				
All other (permanent appropriations)	[illegible]	[illegible]	[illegible]	[illegible]
Total, function [illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Total, all functions	[illegible]	[illegible]	[illegible]	[illegible]
Controllable	[illegible]	[illegible]	[illegible]	[illegible]
All other	[illegible]	[illegible]	[illegible]	[illegible]
FISCAL YEAR [illegible]				
300. Natural resources and environment:				
[illegible]				
[illegible]				
Controllable				
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Total, function 300	[illegible]	[illegible]	[illegible]	[illegible]
370. Commerce and housing credit:				
[illegible]				
[illegible]				
Controllable				
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]				
[illegible]				
Controllable				
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Total, function 370	[illegible]	[illegible]	[illegible]	[illegible]
400. Transportation:				
Department of Transportation:				
[illegible] receipts, fees and other charges, communication and transportation services:				
Controllable				
All other	-[illegible]	-[illegible]	[illegible]	[illegible]
Coast Guard retirement pay:				
Controllable				
All other (benefits under existing law)	0	0	[illegible]	[illegible]
National Highway Traffic Safety Administration, trust funds share of highway safety programs:				
Controllable				
All other (contract authority)	200	0	0	[illegible]
Federal Aviation Administration, grants-in-aid for airports	600	0	0	[illegible]
Department of Commerce, Maritime Administration:				
Operating differential subsidies:				
Controllable				
All other (permanent appropriation)	340	0	0	[illegible]
Federal ship financing fund:				
Controllable				
All other (obligations from fund)	0	-[illegible]	0	[illegible]
St. Lawrence Seaway Development Corp.:				
Controllable				
All other	0	-2	0	[illegible]
Total, function 400	1,[illegible]	-[illegible]	[illegible]	[illegible]

See footnote at end of table.

[illegible]—Continued

[illegible]

Function program	[illegible] Budget authority	Outlays	[illegible] Budget authority	Outlays
[illegible]				
[illegible] Corps of Engineers (Civil [illegible]				
All other (Permanent appropriations)	[illegible]	[illegible]	[illegible]	[illegible]
Total, function [illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Total, all functions	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
All other	[illegible]	[illegible]	[illegible]	[illegible]

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Calendar No. 242

96th Congress } SENATE { Report
1st Session } { No. 96-232

AUTHORIZATIONS FOR DEPARTMENT OF ENERGY CIVILIAN PROGRAMS

FISCAL YEAR 1980

REPORT

OF THE

COMMITTEE ON ENERGY AND
NATURAL RESOURCES
UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 688

JUNE 26 (legislative day, JUNE 21), 1979.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
44-626 O WASHINGTON : 1979

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Calendar No. 242

96TH CONGRESS } SENATE { **REPORT**
1st Session } { No. 96–232

AUTHORIZATIONS FOR DEPARTMENT OF ENERGY CIVILIAN PROGRAMS, FISCAL YEAR 1980

JUNE 26 (legislative day, JUNE 21), 1979.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 688]

The Committee on Energy and Natural Resources, to which was referred the bill, S. 688, to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Department of Energy Authorization Act for Fiscal Year 1980—Civilian Applications".

TITLE I—RESEARCH AND DEVELOPMENT

FOSSIL FUEL—OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following fossil fuel programs:

(a) Coal, $656,313,000, including:

(1) Mining research and development, $60,150,000;

(2) Coal liquefaction, $129,006,000;

(3) Surface coal gasification, $84,850,000;

(4) Peat gasification and peat gasification development activities, $6,700,000;

(5) In-situ coal gasification, $14,900,000;

(6) Advanced research and technology development, $38,500,000;

(7) Advanced environmental control technology, $42,450,000;

(8) Heat engines and heat recovery, $50,300,000;
(9) Combustion systems, $58,900,000;
(10) Fuel cells, $29,500,000;
(11) Magnetohydrodynamics, $130,000,000: *Provided, however*, That $1,500,000 shall be used for an Environmental Impact Statement and a feasibility study for the Engineering Test Facility or the next phase of the MHD program of a larger size; and
(12) Program direction, $11,057,000;

(b) Petroleum, $64,186,000, including:
(1) Enhanced oil recovery, $20,900,000;
(2) Oil shale, $36,000,000;
(3) Drilling and offshore technology, $3,000,000;
(4) Advanced process technology, $3,500,000; and
(5) Program direction, $786,000;

(c) Enhanced Gas Recovery, $37,193,000, including:
(1) Program direction, $283,000.

FOSSIL FUEL—CONSTRUCTION

SEC. 102. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for fossil energy plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(a) Coal:

(1) Project 80–FE–1, Technology Transfer Building, Bartlesville, Oklahoma, $3,000,000;

(2) Project 80–FE–2, Renovation and upgrading of Building B–1, Morgantown, West Virginia, $1,750,000;

(3) Project 80–FE–3, Program support facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,700,000;

(4) Project 80–FE–12, 150 MWe, Peat-Fueled, Electric Generating Plant, site to be determined, $3,100,000 for title I activities only;

(5) Project 80–GPP–1, General plant projects for energy technology centers, six locations, $5,600,000;

(6) Project 79–1–r, Solvent Refined Coal (SRC–II) demonstration plant, site undetermined, an additional sum of $45,000,000 for a total project authorization of $95,000,000: *Provided, however*, That any appropriation pursuan to this additional authorization shall be reduced by an amount equal t the contributions from foreign participants in the project;

(7) Project 78–2–c, Low-Btu fuel gas small industrial demonstration plant Hoyt Lakes, Minnesota, an additional sum of $10,000,000, for a total projec authorization of $25,000,000;

(8) Project 78–2–d, Solvent Refined Coal (SRC–I) demonstration plant site undetermined, an additional sum of $70,000,000 for a total projec authorization of $100,000,000;

(9) Project 77–1–b for a high Btu pipeline gas demonstration plant a additional sum of $7,000,000 for a total project authorization of $17,000,000

(10) Project 77–1–c for fuel gas low Btu demonstration plant, an additional sum of $6,000,000 for a total project authorization of $11,000,000;

(11) Project 76–1–b, High-Btu synthetic pipeline gas demonstration plant site undetermined, an additional sum of $55,000,000 for a total projec authorization of $150,000,000; and

(12) Project 76–1–c, Low/Medium Btu fuel gas demonstration (A–E an long-lead procurement), an additional sum of $1,000,000 for a total projec authorization of $151,000,000.

FOSSIL FUEL—CAPITAL EQUIPMENT

SEC. 103. Funds are hereby authorized to be appropriated for fiscal year 198 in accordance with section 660 of the Department of Energy Organization Ac for fossil fuel acquisition and fabrication of capital equipment not related t construction, $5,600,000, including:
(a) Coal, $3,000,000;
(b) Petroleum, $2,200,000; and
(c) Enhanced Gas Recovery, $400,000.

SUPPLY RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following supply research and development programs:

(a) Solar, $457,021,000, including:

(1) Solar applications, $102,617,000, including:

(A) Systems development, $53,000,000;

(B) Demonstrations, $47,500,000; and

(C) Program direction, $2,117,000;

(2) Solar technology, $354,404,000, including:

(A) Solar thermal electric power systems, $81,500,000;

(B) Photovoltaics energy development, $142,700,000;

(C) Wind energy conversion system, $93,960,000;

(D) Ocean systems, $33,100,000; and

(E) Program direction, $3,144,000;

(b) Biomass, $57,338,000, including:

(1) Biomass, $56,500,000, including $1,500,000 for small-sized wood gasification technology; and

(2) Program direction, $838,000.

(c) Nuclear Fission, $671,074,000, including:

(1) Convertor, $127,606,000, including:

(A) Thermal reactor technology, $44,500,000;

(B) High temperature gas reactor, $30,000,000;

(C) Advanced reactor systems, $4,700,000;

(D) Advanced isotopic separation technology, $46,200,000; and

(E) Program direction, $2,206,000;

(2) Spent fuel storage, $5,182,000, including:

(A) International spent fuel storage, $700,000: Provided, That no official of the Federal Government may obligate any funds for the purpose of conducting any site specific activity, on the territory or possession of the United States (including the Trust Territory of the Pacific Islands and any area, not within the boundaries of the several States, over which the United States claims or exercises sovereignty) or in any State, related to the storage of foreign spent nuclear fuel, unless such official has submitted a full report by the Secretaries of Energy, of the Interior, and of State of such proposed site specific activities not less than 30 days, during which both Houses of Congress are in continuous session, with the exception of recesses of not more than three days, before any such activity commences;

(B) Domestic spent fuel storage, $4,000,000; and

(C) Program direction, $482,000;

(3) Advanced nuclear systems, $38,198,000, including:

(A) Space and terrestrial applications, $34,300,000;

(B) Advanced systems evaluations, $2,600,000; and

(C) Program direction, $1,298,000;

(4) Breeder, $453,188,000, including:

(A) Liquid metal fast breeder reactor, $358,900,000;

(B) Water cooled fast breeder reactor, $57,900,000;

(C) Gas cooled breeder reactor, $24,500,000; and

(D) Program direction, $11,888,000;

(5) Fuel cycle research and development, $46,900,000, including:

(A) LWR fuel cycle, $11,800,000;

(B) Advanced fuel cycle, $8,000,000;

(C) HTGR fuel cycle, $6,000,000;

(D) LWBR fuel cycle, $3,000,000; and

(E) LMFBR fuel cycle, $18,000,000;

(d) Magnetic Fusion, $256,058,000 including:

(1) Confinement systems, $92,600,000;

(2) Development and technology, $50,000,000;

(3) Applied plasma physics, $71,200,000;

(4) Reactor projects, $39,100,000; and

(5) Program direction, $3,158,000;

(e) Geothermal, $157,827,000, including:
  (1) Hydrothermal resources, $74,800,000;
  (2) Geopressurized resources, $35,700,000;
  (3) Geothermal technology development, $45,400,000; and
  (4) Program direction, $1,927,000;
(f) Low-Head Hydroelectric, $8,468,000, including:
  (1) Low-head hydroelectric development, $8,000,000; and
  (2) Program direction, $468,000;
(g) Environmental Programs, $234,158,000, including:
  (1) Overview and assessment, $58,400,000;
  (2) Biomedical and environmental research, $154,390,000;
  (3) Decontamination and decommissioning, $9,000,000; and
  (4) Program direction, $12,368,000.
(h) Basic Research, $238,324,000, including:
  (1) Basic energy sciences, $220,770,000 including:
    (A) Program direction, $2,570,000;
  (2) Technical assessment project, $10,966,000, including:
    (A) Program direction, $466,000;
  (3) University research support, $4,171,000, including:
    (A) Program direction, $171,000; and
  (4) Technical program and policy analysis, $2,417,000;
(i) Electric Energy Systems and Storage, $103,931,000, including:
  (1) Electric energy systems, $39,666,000, including:
    (A) Power supply and systems management, $19,900,000;
    (B) Power delivery, $18,300,000; and
    (C) Program direction, $1,466,000;
  (2) Energy storage systems, $64,265,000, including:
    (A) Battery storage, $32,000,000;
    (B) Chemical, mechanical and other storage, $30,840,000; and
    (C) Program direction, $1,425,000.

CLINCH RIVER BREEDER REACTOR PROJECT

SEC. 105. (a) Section 106 of Public Law 91-273, as amended, is repealed.

(b) The Secretary of Energy (hereinafter referred to as "the Secretary") is directed to complete only—

(1) systems design for the Clinch River Breeder Reactor project; and

(2) procurement and testing of such components as he determines to be useful in conducting research and development on advanced fission technology or otherwise in the public interest, including, but not limited to, the prototypic sodium pump and pump drive, the prototypic steam generator, the invessel transfer machine, and the prototypic secondary control rod systems.

(c) The Secretary is directed to take such action with respect to contractual instruments previously entered into in connection with the Clinch River Breeder Reactor project pursuant to section 106 of Public Law 91-273, as amended as in his judgment are necessary or appropriate to carry out this section: Provided however, That nothing in this section is intended in any way to affect, modify, or prejudice any existing rights of any party, under any such contractual instrument.

(d) The Secretary shall assure that any generic environmental or technical issues related to carrying out the elements of the Clinch River Breeder Reactor project described in subsection (b) of this section are fully documented and discussed with the staff of the Nuclear Regulatory Commission. The Secretary may initiate any necessary and appropriate modifications in any existing liquid metal fast breeder reactor facilities to test, and shall provide for the testing and evaluation of, components which are completed pursuant to subsection (b)(2) of this section.

(e) The Secretary is directed to initiate a conceptual design study of a new breeder reactor test plant. The conceptual design effort will focus on a liquid metal fast breeder reactor plant. This design effort shall include the conceptual planning, conceptual studies, systems studies, and systems designs. The conceptual design effort shall also include preliminaty cost analyses, engineering drawings, utility interconnect studies, generic site selection analyses, and continuing consultations with the Nuclear Regulatory Commission staff on generic environmental and safety issues. In preparing the conceptual design, the Secretary shall take into consideration criteria including, but not limited to, the ability to test alternative fuels of the reactor for proliferation-resistance and other factors, economic factors safety, and the technical viability of the technology.

(f) The Secretary is directed to submit to the President and to the Congress, no later than March 31, 1981, a final report containing the conceptual design, together with his recommendations and additional documentation necessary to support his recommendations. In reaching his recommendations, the Secretary shall consider other breeder reactor concepts, such as the gas-cooled fast reactor or other fast reactors to more efficiently utilize uranium, in addition to the liquid metal fast breeder reactor.

(g) The Secretary shall utilize existing contract design personnel to the maximum extent practicable in carrying out the provisions of subsections (b)(1) and (e) of this section.

(h) In addition to funds authorized to be appropriated pursuant to section 104(c)(4)(A) for testing of components procured pursuant to subsection (b)(2) and for carrying out the conceptual design study pursuant to subsection (c), unexpended funds previously appropriated for the Clinch River Breeder Reactor project shall be available to carry out this section, and there is hereby authorized to be appropriated an additional sum not to exceed $52,000,000 to carry out this section.

(i) This section shall take effect upon the date of enactment.

FUSION ENGINEERING CENTER

SEC. 106. (a) The Secretary is directed to initiate a study of the desirability of creating a national magnetic confinement fusion reactor engineering center for the purpose of accelerating fusion technology development via the concentration and coordination of major magnetic confinement fusion devices and associated activities at such a national center.

(b) In performing the study, the Secretary shall consider, factors relevant including but not limited to,

(1) the savings of cost and time that would accrue from the establishment of such a national center relative to the cost and schedule currently projected for the program;

(2) the extent to which common facilities may be shared by many magnetic confinement fusion approaches;

(3) the environmental and safety-related advantages of the national center;

(4) the potential for fostering international cooperation in magnetic confinement fusion research and development;

(5) the promotion of broader technical involvement in the magnetic confinement fusion energy program by industry and universities;

(6) the stimulation of new ideas and healthy competition by providing a national center for larger-scale magnetic confinement fusion energy devices; and

(7) the advisability of establishing such a center considering all factors including the alternative means and associated costs of pursuing such technology.

(c) The Secretary shall submit by July 1, 1980, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the study and the resulting conclusions and recommendations.

ADVANCED CONVERTER REACTOR

SEC. 107. The President is directed to submit to the Congress, no later than March 31, 1981, an advanced converter reactor commercialization strategy. This study shall describe the potential role of advanced converters (including advanced LWR's, HTGR's, and heavy water reactors) in the evolution of nuclear power reactors to more uranium efficient advanced types and shall discuss the research and development, budgetary and licensing aspects of advanced converter reactor commercialization. The study shall assess the costs and benefits, including implications for nonproliferation and the cost of electricity to consumers, of the use of advanced converter reactors as a source of nuclear electricity in the United States for periods of fifty and one hundred years into the future. Funds for this study are authorized pursuant to section 104(c)(1)(C).

SUPPLY RESEARCH AND DEVELOPMENT—CONSTRUCTION

SEC. 108. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for supply research and development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(a) Solar:

(1) Project 80–ES–1, Wind Energy Systems Test Center Building, Rockwell International, Rocky Flats, Colorado, $2,140,000;

(2) Project 79–1–q, Solar Energy Research Institute facility, Golden, Colorado, an additional sum of $27,000,000 for a total project authorization of $30,000,000; and

(3) Project 76–2–b, Ten megawatt central receiver solar thermal powerplant, Darstow, California, an additional sum of $36,500,000 for a total project authorization of $111,750,000;

(b) Nuclear Fission:

(1) Converter:

(A) Project 80–GPP–1, General plant projects, various locations, $800,000;

(2) Breeder:

(A) Project 80–ES–3, Physical security and safeguards project, test reactor area, Idaho National Engineering Laboratory, Idaho, $1,200,000;

(B) Project 80–ES–4, Laundry decontamination facility, Idaho National Engineering Laboratory, Idaho, $2,200,000;

(C) Project 80–ES–5, Modifications to reactors, various locations, $2,800,000;

(D) Project 80–ES–6, Boilers, heating and ventilating, and fuel tank and roof replacement, Idaho National Engineering Laboratory, Idaho, $1,900,000;

(E) Project 80–ES–11, Idaho Laboratory facility, phases I and II, Idaho National Engineering Laboratory, Idaho, $22,000,000;

(F) Project 80–GPP–1, General plant projects, $12,300,000;

(G) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho, an additional sum of $100,600,000 for a total project authorization of $129,700,000;

(H) Project 78–6–e, Energy technology center facility modifications, Energy Technology Engineering Center, Santa Susanna, California, an additional sum of $5,500,000 for a total project authorization of $13,500,000; and

(I) Project 78–6–f, Fuels and materials examination facility, Richland, Washington, an additional sum of $30,200,000 for a total project authorization of $170,000,000;

(c) Magnetic Fusion:

(1) Project 80–GPP–1, General plant projects, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $1,400,000;

(2) Project 80–GPP–1, General plant projects, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(3) Project 80–MF–5, MIT Plasma Fusion Center modifications, $4,600,000; and

(4) Project 78–3–b, Fusion materials irradiation test facility, Richland, Washington, an additional sum of $67,850,000 for a total project authorization of $82,250,000;

(d) Environmental Programs:

(1) Project 80–ES–8, Modifications and additions to biomedical and environmental research facilities, various locations, $3,500,000; and

(2) Project 80–GPP–1, General plant projects, $2,500,000; and

(e) Basic Research:

(1) Project 80–ES–9, Intense Pulsed Neutron Source-I (IPNS-I), expanded experimental capabilities, Argonne National Laboratories, Argonne, Illinois, $2,400,000;

(2) Project 80–ES–10, Chemical and materials sciences laboratory, Lawrence Berkeley Laboratory, Berkeley, California, $12,600,000; and

(3) Project 80–GPP–1, General plant projects, various locations, $250,000.

SUPPLY RESEARCH AND DEVELOPMENT—CAPITAL EQUIPMENT

SEC. 109. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for supply research and development acquisition and fabrication of capital equipment not related to construction, as follows:

(a) Solar, $15,400,000;

Biomass, $500,000;

(b) Nuclear Fission, $43,021,000, including:

(1) Converter, $10,800,000;
(2) Spent fuel disposition, $2,000,000;
(3) Advanced nuclear systems, $2,100,000;
(4) Breeder, $25,621,000; and
(5) Fuel cycle research and development, $2,500,000;

(c) Magnetic Fusion, $29,800,000;
(d) Geothermal, $3,700,000;
(e) Environmental, $24,500,000;
(f) Basic Research, $14,550,000; and
(g) Electric Energy Systems and Storage, $2,900,000.

CONSERVATION RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

SEC. 110. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation research and development programs:

(a) Buildings and Community Systems, $[illegible], including:

(1) Buildings systems, $17,250,000;
(2) Community systems, $16,550,000;
(3) Urban waste, $20,000,000;
(4) Technology and consumer products, $37,900,000, including $3,000,000 for wood stove research and development; and
(5) Program direction, $1,200,000;

(b) Industrial, $44,738,000, including:

(1) Waste energy reduction, $15,400,000;
(2) Process efficiency, $14,000,000;
(3) Cogeneration, $14,000,000; and
(4) Program direction, $1,338,000;

(c) Transportation, $114,261,000, including:

(1) Vehicle propulsion research and development, $61,500,000;
(2) Nonhighway transport systems, $1,000,000;
(3) New concepts, $3,145,000;
(4) Electric and hybrid vehicles, $41,000,000;
(5) Alternative fuels utilization, $5,200,000; and
(6) Program direction, $2,416,000; and

(d) Multisector—Inventors Support, $5,200,000.

CONSERVATION—CONSTRUCTION

SEC. 111. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for conservation research and development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition:

(a) Project 80-C-1, coal to acetylene demonstration project, $15,100,000.

CONSERVATION RESEARCH AND DEVELOPMENT—CAPITAL EQUIPMENT

SEC. 112. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for conservation research and development acquisition and fabrication of capital equipment not related to construction, $2,500,000, including:

(a) Buildings and Community Systems, $1,000,000;
(b) Industrial, $500,000; and
(c) Transportation, $1,000,000.

GENERAL SCIENCE AND RESEARCH—OPERATING EXPENSES

SEC. 113. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following general science and research programs:

(a) Life Sciences Research and Biomedical Applications, $40,737,000, including:

(1) General life sciences, $22,910,000;
(2) Biomedical applications, $17,590,000; and
(3) Program direction, $237,000;

(b) High Energy Physics, $215,133,000, including:
  (1) Physics research, $71,850,000;
  (2) Facility operations, $105,100,000;
  (3) High energy technology, $37,050,000;
  (4) Program direction, $1,133,000; and
(c) Nuclear Physics, $81,768,000, of which $1,000,000 shall be used to fund the University Reactor Sharing program, including:
  (1) Medium energy physics, $41,700,000;
  (2) Heavy ion physics, $33,600,000;
  (3) Nuclear theory, $6,100,000; and
  (4) Program direction, $368,000.

GENERAL SCIENCE AND RESEARCH—CONSTRUCTION

SEC. 114. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for general science and research plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition:
(a) High Energy Physics:
  (1) Project 80–GS–1, Accelerator improvements and modifications, various locations, $[illegible];
  (2) Project [illegible], General plant projects, various locations, $[illegible];
  (3) Project [illegible], Energy saver, Fermi National Accelerator Laboratory, Batavia, Illinois, an additional sum of $2[illegible],900,000 for a total project authorization of $28,900,000; and
  (4) Project 78–10–a, Intersecting storage accelerator (ISABELLE) [illegible], Brookhaven National Laboratory, Upton, New York, an additional sum of $241,500,000 for a total project authorization of $275,000,000; and
(b) Nuclear Physics:
  (1) Project 80–GS–2, Bates Linear Accelerator Beam Recirculator Project, Middleton, Massachusetts, $1,800,000;
  (2) Project 80–GS–3, Experimental support addition, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $2,400,000;
  (3) Project 80–GS–4, Accelerator improvements and modifications, various locations, $1,600,000;
  (4) Project 80–GS–5, National Superconducting Cyclotron Laboratory, Michigan State University, East Lansing, Michigan (A–E and long-lead procurement only), $6,000,000; and
  (5) Project 80–GGP–1, General plant projects, various locations, $3,000,000.

GENERAL SCIENCE AND RESEARCH—CAPITAL EQUIPMENT

SEC. 115. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for general science and research acquisition and fabrication of capital equipment not related to construction, as follows:
  (a) Life Sciences Research and Biomedical Applications, $1,500,000;
  (b) High Energy Physics, $36,000,000; and
  (c) Nuclear Physics, $8,2000,000.

URANIUM ENRICHMENT PROCESS DEVELOPMENT—OPERATING EXPENSES

SEC. 116. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the uranium enrichment process development program, as follows:
  (a) Uranium Enrichment Process Development, $77,400,000, including:
    (1) Gaseous diffusion, $14,000,000; and
    (2) Gas centrifuge, $63,400,000.

URANIUM ENRICHMENT PROCESS DEVELOPMENT—CONSTRUCTION

SEC. 117. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment process development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(a) Project 79-2-d, Technology test facilities, various locations, an additional sum of $13,000,000 for a total project authorization of $20,000,000.

URANIUM ENRICHMENT PROCESS DEVELOPMENT—CAPITAL EQUIPMENT

SEC. 118. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment process development acquisition and fabrication of capital equipment not related to construction, as follows:

(a) Uranium Enrichment Process Development, $5,030,000.

GEOTHERMAL RESOURCES DEVELOPMENT FUND—OPERATING EXPENSES

SEC. 119. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses of the Geothermal Resources Development Fund as follows:

(a) Geothermal Resources Development Fund, $[illegible].

TITLE II—REGULATION, AND INFORMATION, AND OTHER ACTIVITIES

ECONOMIC REGULATORY ADMINISTRATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Economic Regulatory Administration, $135,646,000, as follows:

(a) Coal Utilization, $20,323,000;
(b) Utility Programs and Regulatory Intervention, $9,694,000;
(c) Compliance, $60,428,000, including:
  (1) major refiners, $35,921,000;
  (2) all other, $20,666,000; and
  (3) overhead support, $3,841,000;
(d) Regulation Development, $5,266,000;
(e) Fuels Regulation, $5,166,000;
(f) Emergency Preparedness, $32,600,000; and
(g) Program Direction, $2,159,000.

OFFICE OF HEARINGS AND APPEALS

SEC. 202. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Office of Hearings and Appeals, $5,942,000.

FEDERAL ENERGY REGULATORY COMMISSION

SEC. 203. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Federal Energy Regulatory Commission, $73,187,000, as follows:

(a) Oil Regulation, $4,973,000;
(b) Gas Regulation, $41,365,000;
(c) Hydro Regulation, $12,520,000; and
(d) Multiresource Regulation, $14,329,000.

ENERGY INFORMATION ADMINISTRATION

SEC. 204. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Energy Information Administration, $83,657,000, as follows:

(a) Energy Applied Analysis, $23,877,000;
(b) Collection, Production and Dissemination, $44,055,000;
(c) Data Validation, $13,884,000; and
(d) Data Information Services, $11,846,000.

STRATEGIC PETROLEUM RESERVE

SEC. 205. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Oraginzation Act for operating expenses for the following strategic petroleum reserves program:

(a) Strategic Petroleum Reserves, $8,391,000.

AMENDMENT TO ENERGY POLICY AND CONSERVATION ACT

SEC. 206. (a) The first sentence of section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237) is amended by striking ", or readily accessible to".

(b) The second sentence of section 154(d) of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended by striking "to the maximum extent practicable, that".

REPORT ON OIL ACQUISITION FOR STRATEGIC PETROLEUM RESERVE

SEC. 207. Thirty days prior to recommencing the purchase of crude oil or petroleum products for storage in the Strategic Petroleum Reserve, the Secretary of Energy shall submit a report to the appropriate authorizing committees of the Congress with a detailed discussion of the oil acquisition plans and strategies for the purchases, including alternative strategies and a comparision of them with the proposed strategy, the effects on the availability and pricing of oil in the domestic and world market, the economic feasibility of storing the production of Naval Petroleum Reserve Numbered 1 in the Strategic Petroleum Reserve, the relative advantages of diversifying methods and sources of purchase, the probable acquisition prices and any other relevant considerations.

COMPETITION IN CRUDE OIL SALES

SEC. 208. The President may not continue in effect any provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973, or any ruling or interpretation thereof, regarding the relationship between suppliers and purchasers of crude oil unless he has, by rule, within sixty days after enactment of this section, reviewed and modified the regulation or ruling or interpretation thereof, as the President determines necessary, to remove those provisions of the regulation or ruling or interpretation thereof, regarding the relationship between suppliers and purchasers of crude oil, which restrict competition, unless and to the extent he finds such provisions are necessary to provide an adequate supply of crude oil to small refiners.

TITLE III—COMMERCIALIZATION AND RELATED ACTIVITIES

FOSSIL ENERGY

SEC. 301. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following fossil energy commercialization and related activities programs, $22,295,000, including:

(a) Coal Utilization and Supply, $4,500,000;
(b) Shale Oil Development Program, $10,500,000;
(c) Oil and Gas Development Projects, $3,000,000; and

RENEWABLE RESOURCES.

SEC. 302. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following renewable resources commercialization and related activities programs, $41,479,000, including:

(a) Solar Commercial Planning, $13,000,000;
(b) Market Development and Training, $27,000,000; and
(c) Program Direction, $1,479,000.

CONSERVATION—OPERATING EXPENSES

SEC. 303. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation commercialization and related activities programs:

(a) Buildings and Community Systems, $13,562,000, including:
  (1) Appliance standards, $6,000,000;
  (2) Federal Energy Management Programs, $4,200,000;
  (3) Small Business, $700,000; and
  (4) Program direction, $2,662,000;
(b) Industrial, $12,500,000; including:
  (1) Implementation and Commercialization, $11,800,000; and
  (2) Program direction, $700,000;
(c) Transportation, $3,062,000, including:
  (1) Transportation System Utilization, $2,555,000; and
  (2) Program direction, $507,000; and
(d) State and Local, $14,783,000; including:
  (1) Schools and hospitals grant program, $2,500,000;
  (2) Other Local Government Buildings Grant Program, $200,000;
  (3) Weatherization assistance program, $7,000,000; and
  (4) Program direction, $4,083,000.

MULTIRESOURCES

SEC. 304. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following multiresources commercialization and related activities program, $103,000,000, as follows:

(a) Alternative fuels loan guarantee program, the Secretary is authorized to guarantee and to make commitments to guarantee loans, which shall at no time exceed $900,000,000, for the purpose of demonstrating high Btu coal gasification; in support thereof, there is authorized to be appropriated $8,000,000 for administrative expenses and $90,000,000 for the payments of interest and principal and the payment of interest differentials and redemption of debt, into the revolving fund pursuant to section 19(n) of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.); the Congress hereby finds that all the requirements of subsection 19(m) of such Act have been satisfied, for this authorization of guarantees and commitments to guarantee loans pursuant to section 19 for the purpose of demonstrating high-Btu coal gasification; and

(b) Municipal waste loan guarantee program pursuant to section 19(y) of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), $5,000,000.

AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

SEC. 305. The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding a new section 409, as follows:

"SEC. 409. THE SMALL COMMUNITY HYDROELECTRIC ASSISTANCE PROGRAM.

"(a) The Secretary is authorized in accordance with such rules and regulations as he shall prescribe, after consultation with the Secretary of Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principle balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any State or local government, or agency thereof, for the purpose of financing the project costs of small hydroelectric power projects.

"(b) The Secretary is authorized to guarantee or make commitments to guarantee, pursuant to this section, to a total outstanding indebtness which at no time shall exceed $300,000,000.

"(c) The Secretary is authorized to approve an application for such guarantee or commitment to guarantee for a small hydroelectric power project only if—

"(1) the total amount guaranteed shall not exceed 90 per centum of the the project costs,

"(2) the total amount guaranteed shall not exceed $30,000,000,

"(3) the maximum maturity of the obligation shall not exceed fifty years,

"(4) the project is financially and economically feasible and there is a reasonable assurance of repayment of the guaranteed bond, debenture, note or other obligation, and

"(5) the provisions of Federal and State law applicable to the project will be satisfied in the construction and operation of the project.

"(d) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(e) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence tha the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(f)(1) If there is a default by the borrower, as defined in regulations promulgated by the Secretary and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Secretary. Within such period as may be specified in the quarantee or related agreements, the Secretary shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Secretary.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that this is in the public interest. The rights of the Secretary with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(g) With respect to any obligation guaranteed under this section, the Secretary is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Secretary finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Secretary is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Secretary such payment on terms and conditions, including interest, which are satisfactory to the Secretary.

"(h) Regulations required by this section shall be promulgated within ninety days after enactment of this section.

"(i) The Secretary shall charge and collect fees for guarantees of obligations authorized by this section, in amounts which are sufficient in the judgment of the Secretary to cover the applicable administrative costs.

"(j) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(k)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Secretary as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repaymnets pursuant to operations of the Secretary under this section shall be paid from the fund subject to appropriations. If at any time the Secretary determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities as authorized by this section, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(l) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State or political subdivision and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: Provided, That the Secretary shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall recommend.

"(m) Feasibility studies of small hydroelectric power projects proposed for assistance under this section also may have been the subject of assistance under section 402.

"(n) Small hydroelectric power projects proposed for assistance under this section also shall be subject to simplified and expeditious licensing procedures under section 405. Such procedures under section 405 shall, to the maximum extent feasible, be concurrent with the procedures of this section. Any requirements, pursuant to subsection 102(c)(3) of the National Environmental Policy Act, for the same small hydroelectric power project under section 405 and under this section shall be consolidated into a single assessment or statement for the purposes of both section 405 and this section.

"(o) For the purposes of this section, the term "small hydroelectric power projects" shall be defined as any new hydroelectric project, with or without a dam impoundment structure, which has not more than 25,000 kilowatts of installed capacity.".

AMENDMENT TO ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1976

SEC. 306. Section 13(c) of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (15 U.S.C. 2512(c)) is amended by adding the following new subparagraphs:

“EVALUATION OF INCENTIVES FOR COMMERCIALIZATION

“(1) The Secretary of Energy and the Secretary of Transportation are authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 2502, in the Corporate Average Fuel Economy calculations, pursuant to the Energy Policy and Conservation Act of 1975, as amended, to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shal lbe conducted in parallel with the research and development activities of section 2505 and the demonstration activities of section 2506 to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

“(2) The Secretary of Transportation, in consultation with the Secretary of Energy, shall implement immediately the evaluation program by promulgating, within 60 days of enactment of the DOE Authorization Act for Fiscal Year 1980, regulations to include electric vehicles in Corporate Average Fuel Economy calculations, consistent with the following amendment. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended, is further amended by adding new section 2003(a)(3), which reads as follows:

“‘(3) In the event that a manufacturer includes electric vehicles in its fleet, the average fuel economy will be calculated in the following manner:

“‘(A) The Secretary of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

“‘(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

“‘(ii) the national average electricity generation and transmission efficiencies;

“‘(iii) the national average percentage use of petroleum in electricity generation;

“‘(iv) the specific driving patterns of electrical vehicles as compared with those of petroleum fueled vehicles.

“‘(B) These equivalent petroleum fuel economy values will be used in the determination of corporate average fuel economy standards as required in section 2002.

“‘(C) The Secretary of Energy will propose equivalent fuel economy values within four months of enactment of the Department of Energy Authorization Act for Fiscal Year 1980. Final promulgation of the values is required no later than six months after the proposal of the values.

“‘(D) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary.’

“(4) The Secretary of Energy, in consultation with the Secretary of Transportation, shall include a full discussion of this evaluation program in the annual report required by section 2513 in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation, shall submit to the Congress on January 1, 1987, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the Corporate Average Fuel Economy calculations.”.

AMENDMENT TO NATIONAL ENERGY CONSERVATION POLICY ACT

Sec. 307. Title V, part 2, section 524 of the National Energy Conservation Policy Act (Public Law 95–619) is amended by striking “1980” and substituting “1983”.

TITLE IV—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES

ALASKA POWER ADMINISTRATION

Sec. 401. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Alaska Power Administration, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska, $2,660,000.

SOUTHEASTERN POWER ADMINISTRATION

SEC. 402. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expense for the Southeastern Power Administration, $1,400,000.

SOUTHWESTERN POWER ADMINISTRATION

SEC. 403. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Southwestern Power Administration, $32,180,000.

WESTERN AREA POWER ADMINISTRATION

SEC. 404. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Western Area Power Administration:

(a) For construction, rehabilitation, operation, and maintenance of electric power transmission facilities, and power marketing activities, $122,800,000, of which $107,400,000 shall be derived from the Department of the Interior reclamation fund;

(b) For the Emergency Fund established pursuant to the Act of June 26, 1948 (43 U.S.C. 502), to assure continuous operations during unusual or emergency conditions, $200,000, all of which shall be derived from the Department of the Interior reclamation fund; and

(c) For continued work on the transmission system of the Upper Colorado River Storage Project, authorized by section 1(1) of the Act of April 11, 1956 (Public Law 485 of the Eighty-fourth Congress; 70 Stat. 105) and legislation supplementary thereto, including the Act of August 10, 1972 (Public Law 92-370), $5,152,000.

FEDERAL LEASING AND FUEL DATA GATHERING AND ANALYSIS

SEC. 405. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following Federal leasing and fuel data gathering and analysis programs:

(a) Federal leasing $3,368,000, including:
  (1) Federal leasing, $2,000,000; and
  (2) Program direction, $1,368,000, and
(b) Fuel Data Gathering and Analysis, $3,000,000; including:
  (1) Mineral fuels, $2,748,000; and
  (2) Petroleum and Natural Gas Data, $252,000.

TITLE V—NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING

URANIUM RESOURCE ASSESSMENT—OPERATING EXPENSES

SEC. 501. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following uranium resource assessment program:

(a) Uranium Resource Assessment, $78,693,000, including Program direction, $4,278,000.

URANIUM RESOURCE ASSESSMENT—CONSTRUCTION

SEC. 502. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium resource assessment plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(a) Project 80-GPP-1, General plant projects, Grand Junction, Colorado, $2,500,000.

URANIUM RESOURCE ASSESSMENT—CAPITAL EQUIPMENT

SEC. 503. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium resource assessment acquisition and fabrication of capital equipment not related to construction, as follows:

(a) Uranium Resource Assessment, $3,110,000.

SPENT FUEL STORAGE-OPERATING EXPENSES

SEC. 504. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the spent fuel storage operations, $13,300,000, as follows

(a) International spent fuel storage, $3,500,000: Provided, That no officia of the Federal Government may obligate any funds for the purpose of conducting any site specific activity, in any territory or possession of the United States (including the Trust Territory of the Pacific Islands and any area, not within the boundaries of the several States, over which the United States claims or exercises sovereignty) or in any State, related to the storage of foreign spent nuclear fuel, unless such official has submitted a full report by the Secretaries of Energy, of the Interior, and of State on such proposed site specific activities not less than 30 days, during which both Houses of Congress are in continuous session, with the exception of recesses of not more than three days, before any such activity commences; and

(b) Domestic spent fuel storage, $9,800,000.

SPENT FUEL STORAGE—CONSTRUCTION

SEC. 505. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for spent fuel storage plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition as follows

(a) Project 79-1-p, Away-From-Reactor Nuclear Spent Fuel Storage Capacity of up to 5,000 Metric Tons, site or sites to be determined, pursuant to subsection (b), (c), (d) and (e), $300,000,000.

(b) In selecting a site or sites for Project 79-1-p, the Secretary shall investigate potential sites and shall consult, in an early and timely manner, with the Governor and other officials of each State within which any site under active consideration is located. The Secretary shall designate a site or sites for such project and shall notify, in writing, the Governor of the State within which the designated site or sites occurs. The Governor of the affected State may disapprove of a designated site by written communication to the Secretary within 90 days of notification The Secretary may use that site for the Project only if the Governor's objections are satisfied through their further consultation.

(c) Nothing in this section shall be interpreted to restrict or broaden any authority of the Nuclear Regulatory Commission under existing law with regard to the licensing of this or any other project.

(d) Not more than $25,000,000 of the $300,000,000 authorized in subsection (a may be obligated for Project 79-1-p in fiscal year 1980 until legislation establishing title transfer, user fees and other program operating procedures has been enacted Funds from the $25,000,000 may be obligated for site specific design, Environmental Impact Statements and other activities, but may not be obligated fo actual acquisition of a facility. Of the $25,000,000, $5,000,000 are authorized fo the purposes of conducting a study of the need for away from reactor storage and the options available for such storage, including the feasibility, cost and potentia sites.

(e) Project 79-1-p shall not be used for any storage of any foreign nuclea spent fuel.

DECONTAMINATION AND DECOMMISSIONING

SEC. 506. (a) Funds are hereby authorized to be appropriated for fiscal yea 1980 in accordance with section 660 of the Department of Energy Organizatio Act for operating expenses for the decontamination and decommissioning pro grams, $23,000,000, as follows:

(1) Remedial action for former Department of Energy contractor installa tions, $11,5000,00; and

(2) Remedial action for inactive uranium mill tailing sites, $11,500,000.

(b)(1) The Secretary of Energy shall, within one year of the date of enactment of this Act, report to the appropriate committees of the Congress the results of a study of the cost of decontamination and decommissioning of commercial nuclear power reactors in the United States.

(2) For the purposes of this subsection the Secretary of Energy is authorized to expend up to $1,000,000 of available appropriations to the Department of Energy in fiscal year 1980.

TITLE VI—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 601. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the other renewable resources and conservation activities programs as follows:

(a) Buildings and Community Systems, $6,675,000, including:
  (1) Analysis and technology transfer, $5,400,000; and
  (2) Program direction, $1,275,000;
(b) State Energy Management and Planning, $112,375,000, including:
  (1) Energy Policy and Conservation Act Grants, $59,000,000: *Provided, however*, That no funds so authorized shall be available to provide financial assistance to any State pursuant to section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) unless such State has implemented a traffic law or regulation effective throughout such State which permits the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety;
  (2) Energy Conservation and Production Act Grants, $20,000,000.
  (3) Energy extension service, $30,000,000; and
  (4) Program direction, $3,375,000; and
(c) Multisector, $23,635,000, including:
  (1) Appropriate technology, $23,000,000; and
  (2) Program direction, $635,000.

AMENDMENT TO TITLE VI OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 602. Section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620) is amended by striking clause (a)(1)(A) and inserting in lieu thereof the following:

> "(a)(1)(A) either (i) employment in, or population directly related to, coal or uranium production development activities in such area has increased by 8 percent or more in any year not more than five years before the date of designation or (ii) employment in, or population directly related to, such activities will increase by 24 percent or more during the three years following the most recent year;".

TITLE VII—OTHER DEPARTMENTAL ACTIVITIES

URANIUM ENRICHMENT ACTIVITIES—OPERATING EXPENSES

SEC. 701. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following uranium enrichment activities programs, $789,449,000, including:

(a) Diffusion Operations and Support, $780,683,000;
(b) Centrifuge Operations and Support, $6,200,000; and
(c) Program Direction, $2,566,000.

URANIUM ENRICHMENT ACTIVITIES—CONSTRUCTION

SEC. 702. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, $323,200,000, as follows:

(a) Project 80–UE–1, Control of gaseous effluents, gaseous diffusion plants, Oak Ridge, Tennessee, and Paducah, Kentucky, $7,000,000; and

(b) Project 80–UE–2, Control of water pollution, gaseous diffusion plants, $17,000,000;

(c) Project 80–UE–3, Plant facilities security improvements, gaseous diffusion plants, $17,000,000;

(d) Project 80–UE–4, Power recovery demonstration cells, gaseous diffusion plants, $10,500,000;

(e) Project 80–UE–5, Motor and switchgear upgrading, gaseous diffusion plants, $28,500,000;

(f) Project 80–UE–6, UF_6 tails cylinders and storage yards, gaseous diffusion plants, $7,000,000;

(g) Project 80–GPP–1, General plant projects, various locations, $16,200,000;

(h) Project 76–8–g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $220,000,000 for a total project authorization of $802,630,000.

URANIUM ENRICHMENT ACTIVITIES—CAPITAL EQUIPMENT

SEC. 703. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment activities acquisition and fabrication of capital equipment not related to construction, as follows:

(a) Uranium Enrichment Activities, $18,400,000.

URANIUM ENRICHMENT POLICY AND PLAN

SEC. 704. The Secretary shall submit to the President and the Congress and publish in the Federal Register no later than February 1, 1980, a full and complete statement of the Department's policy governing civilian uranium enrichment services and an associated plan for civilian uranium enrichment operations through 1990, with appropriate projections to the year 2000. The policy and plan shall discuss at a minimum (1) the policies and procedures, including financing for stockpile and inventory management, (2) implementation of section 303 of the Nuclear Nonproliferation Act of 1978 (Public Law 95–242), (3) operations of the enrichment facilities, including electrical power availability and tails assay, (4) enrichment service pricing, (5) enrichment service contracts, (6) international nuclear fuel bank set-asides or other commitments, (7) projected domestic and international demand and intended United States market share over time, (8) projected enrichment capacity requirements, (9) anticipated revenues and proposed uses, (10) organizational and management approaches, including revolving fund financing or establishment of a Government corporation or quasi-Government institution, (11) uranium resource availability and the relationship of enrichment operations to domestic mining and milling, (12) use of imported uranium, (13) large commitment contracts to foreign customers (or foreign nations) and (14) the policy with regard to enrichment of imported uranium.

URANIUM ENRICHMENT SERVICES PRICES PROCEDURES

SEC. 705. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201) is amended further by inserting after "time" and before the colon, at the the end of the first proviso, the following, ", using procedures for any such price which shall include (a) prior notification in the Federal Register with a full and complete basis for the computation of the new price, (b) a public hearing and the opportunity for public comment, and (c) judicial review pursuant to chapter 7 of title 5 of the United States Code.".

COMMERCIAL WASTE MANAGEMENT—OPERATING EXPENSES

SEC. 706. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the commercial waste managment program, as follows:

(a) Commercial Waste Management, $187,649,000.

COMMERCIAL WASTE MANAGEMENT—CONSTRUCTION

SEC. 707. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for commercial waste management plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition,

(a) Project 80–ES–7, Plant operation maintenance facility, Richland, Washington, $2,000,000; and

(b) Project 80–GPP–1, General plant projects, $3,300,000.

COMMERCIAL WASTE MANAGEMENT—CAPITAL EQUIPMENT

SEC. 708. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for commercial waste management acquisition and fabrication of capital equipment not related to construction, as follows:

(a) Commercial Waste Management, $11,800,000.

DEPARTMENTAL ADMINISTRATIVE ACTIVITIES—OPERATING EXPENSES

SEC. 709. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for Departmental administrative activities programs, as follows:

(a) Policy Analysis and Systems Studies, $12,500,000;
(b) Management and Support, $238,266,000, including:
    (1) Office of the Secretary, $2,896,000;
    (2) General Counsel, $13,311,000;
    (3) Inspector General, $6,182,000;
    (4) Equal Opportunity, $1,347,000;
    (5) Board of Contract Appeals, $225,000;
    (6) Administration, $19,443,000;
    (7) Procurement, $7,890,000;
    (8) Controller, $9,606,000;
    (9) International Affairs, $5,245,000;
    (10) Policy and Evaluation, $6,882,000;
    (11) Institutional and Intergovernmental Relations, $10,119,000;
    (12) Operations Offices, $61,467,000;
    (13) Regional Counsels, $4,117,000;
    (14) Regional Representatives, $7,079,000; and
    (15) Power Marketing Administration Coordination, $510,000;
(c) International Affairs, $3,700,000, including:
    (1) International cooperation in non-nuclear technologies, $2,000,000; and
    (2) International policy studies, $1,700,000;
(d) Intergovernmental and Institutional Relations, $36,815,000, including:
    (1) Technical information services, $10,574,000;
    (2) Education, business, industrial and labor, $11,870,000;
    (3) Intergovernmental relations, $10,081,000;
    (4) Public affairs, $2,290,000;
    (5) Indian affairs, $1,000,000; and
    (6) Consumer affairs, $1,000,000;
(e) In-House Energy Management, $3,600,000;
(f) Cost of Work for Others, $24,994,000;
(g) Changes in Inventory and Working Capital, $19,260,000; and
(h) Security Investigations, $16,400,000.

LOS ALAMOS COMMUNITY ASSISTANCE

SEC. 710. (a) For any fiscal year beginning after September 30, 1980, the Secretary shall make payments under this section to Los Alamos, New Mexico, based on a formula where the assistance payment for any fiscal year shall be determined from the assistance payment for the preceding year as adjusted considering the following:

(1) the estimated inflation adjustment;
(2) the estimated employment impact or related school enrollment;
(3) the average assistance payment received by such entity over the past three years; and

(4) the ratio of projected revenues from local sources to average local source revenues over the preceding three years.

(b) Assistance to School Districts.—For any fiscal year beginning after September 30, 1980, the Secretary shall make payments under this section to affected school districts at or near Los Alamos, New Mexico, based on the formula established under subsection (a).

(c) Maintenance of Effort.—Funds shall be made available under subsection (b) only to the extent that the Secretary determines that such funds are in addition to, and shall not supplant, local funds. In making a determination under the preceding sentence the Secretary shall consider the effects of inflation, school enrollment changes and such other matters as may be deemed necessary.

(d) Payments to other entities eligible under the Atomic Energy Communities Act of 1955, as amended (42 U.S.C. 2301, et. seq.), shall not be affected by this section.

DEPARTMENTAL ADMINISTRATIVE ACTIVITIES—CONSTRUCTION

Sec. 711. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for Departmental administrative activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(a) In-House Energy Management:

(1) Project 80–DA–1, Modification for energy management, various locations, $19,700,000;

(2) Project 80–DA–2, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, $4,500,000;

(3) Project 80–DA–3, Process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Peketon, Ohio, $4,200,000;

(4) Project 80–DA–4, Automated energy management system, Pantex Plant, Amarillo, Texas, $4,000,000; and

(5) Project 80–DA–5, Conversion of boiler No. 5 to high sulfur coal firing, Argonne National Laboratory, Argonne, Illinois, $5,000,000; and

(b) Other Supporting Activities:

(1) Project 80–PE&D–1, Plant engineering and design, various locations, $9,000,000.

(c) Project 80–ES–24, Environment and Energy Technology Facility, Richland, Washington, $18,000,000.

DEPARTMENTAL ADMINISTRATIVE ACTIVITIES—CAPITAL EQUIPMENT

Sec. 712. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for Departmental administrative activities acquisition and fabrication of capital equipment not related to construction as follows:

(a) Departmental administration, $4,815,000.

TITLE VIII—GENERAL PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

STATEMENT OF POLICY

Sec. 801. All appropriations made to the Department of Energy or the Secretary shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 660 of the Department of Energy Organization Act (Public Law 95-91). Notwithstanding the provisions of other law, the provisions of this title shall apply with respect to appropriations made pursuant to this Act and all future Acts providing such authorizations (hereinafter in this title referred to as "annual authorization Acts").

DEFINITIONS

Sec. 802. For the purposes of this title the term—

(1) "Secretary" means the Secretary of Energy.

(2) "program" means any category, function (including Capital Equipment Not Related to Construction) or other activity for which a specific amount of funds is authorized to be appropriated by separate item in any annual authorization Act.

LIMITATION ON REPROGRAMING OF FUNDS

SEC. 803. (a) Except as otherwise provided in the authorization Act involved—

(1) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized to be appropriated for that particular program by such Act, and

(2) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain or an adjournment sine die has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such Committee before the expiration of such period has transmitted to the Secretary written notice of the effect that such Committee has no objection to the proposed action.

(b) Nothwithstanding any other provision of this title or the annual authorization Act involved, the aggregate amount available for use within any program from sums appropriated pursuant to an annual authorization Act may not, as a result of reprograming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for such program.

OPERATING EXPENSES

SEC. 804. (a)(1) Funds appropriated pursuant to an annual authorization Act for "Operating expenses" also may be used for—

(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Department of Energy, for the performance of authorized activities, and

(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this section for the acquisition of land. Fee title to all such facilities and items of equipment acquired under this section shall be vested in the United States, unless the Secretary or his designee determines in writing and in accordance with subsection (c) that the activities authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States.

(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the House of Representatives and the Senate, or the use of such funds is in accordance with subsection (c),

(b)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for "Operating expenses" may be used by the Secretary to construct, expand, modify or acquire laboratories and other facilities, including the acquisition of land at any location under the control of the Secretary, if the Secretary determines that:

(A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and

(B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by the Congress for the Department; and

(2) The determination under paragraph (1) is in accordance with subsection (c).

(c) No funds may be obligated for expenditure or expended under subsections (a) or (b) for activities described in such subsections unless—

(1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Secretary has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (A) the nature of the construction, expansion, or modification involved, (B) the cost thereof, including the cost of any real estate action

pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary and in the national interest, or

(2) each such Committee before the expiration of such period has transmitted to the Secretary a written notice to the effect that such Committee has no objection to the proposed action;

Except that this subsection shall not apply to any project under paragraph (b)(1) the estimated total cost of which does not exceed $50,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 805. (a) Notwithstanding section 660 of the Department of Energy Organization Act (Public Law 95-91), authorizations of appropriations for Plant and Capital Equipment line item projects (except for capital equipment not related to construction and general plant projects) shall remain available until fully appropriated or for such periods as may be specified in the authorizing Act.

(b) Except as provided in subsection (a), and, notwithstanding section 660 of the Department of Energy Organization Act (Public Law 95-91), any authorization of appropriations may remain available for appropriations for such period, beyond the first fiscal year in which it is available, as may be specified in an authorization Act.

(c) The Secretary is authorized to perform construction design services for any Department of Energy plant and capital equipment line item project whenever (1) such project has been included in a proposed authorization bill transmitted to the Congress by the Secretary, and (2) the Secretary determines that such project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of such project should be initiated promptly upon enactment of legislation authorizing and appropriating funds for its construction, and transmits to the appropriate Committees of Congress such determination.

(d) For the purposes of this title authorizations for appropriations for previously authorized plant and capital equipment line item projects shall be increased to the extent of any appropriations pursuant to Public Law 95-465 and Public Law 95-482 which are in excess of the previous total authorization.

GENERAL PLANT PROJECT

SEC. 806. The Secretary is authorized to start any project under a General Plant project line item in an annual authorization Act only if:

(a) the maximum estimated cost of such project at the time of the start does not exceed $1,000,000;

(b) the then maximum currently estimated cost of any building including in such project does not exceed $400,000; and

(c) the total cost of all projects undertaken under such General Plant project line item shall not exceed the total amount authorized in such General Plant project line item by more than 25 percent unless and until appropriations covering such excess are authorized.

(d) Except as otherwise provided in an annual authorization Act, the Secretary is authorized to start any plant and capital equipment line item project only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

EXEMPTION FROM FISCAL YEAR LIMITATION

SEC. 807. When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for any program may remain available until expended, but only available for the program for which such amounts were originally authorized.

USE OF UNEXPENDED BALANCES

SEC. 808. (a) When so specified in an appropriation Act, the unexpended balances for any appropriations for any program may be transferred to any new appropriation account established for the same program pursuant to an appropriation Act authorized by this Act, and balances so transferred may be merged with funds in the applicable newly established account and thereafter may be accounted for as one fund for the same time period as originally enacted: Provided, That no such amounts appropriated for plant and capital equipment may be merged with amounts appropriated for operating expenses.

(b) No limitation under an annual authorization Act applicable to any funds shall be considered to be inapplicable by reason of this section.

TREATMENT OF CERTAIN REVENUES

Sec. 809. (a) When so specified in an appropriation Act, any funds received by the Department of Energy may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

(1) this section shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

(2) revenues received by the Department from the enrichment of uranium and retained by the Department (pursuant to such specification in any appropriation Act permitting retention and use) shall be used for the specific purpose of offsetting costs (including, first, operating expenses and, second, capital equipment not related to construction) incurred by the Secretary in providing uranium enrichment services and any surplus after such offsetting shall be used for new facilities authorized by the Congress to provide additional enrichment capacity, and any surplus thereafter shall be used as the Secretary shall specify after notification to the appropriate authorization and appropriations committee of the Congress, pursuant to section 803;

(3) this subsection shall not apply with respect to funds received from power marketing and naval pertoleum reserve activities, the disposition of which shall be in accordance with the laws pertaining to such activities.

(b) When an appropriation Act permits the retention of funds as provided in subsection (a), the amounts authorized to be appropriated in an authorization Act shall be reduced by the estimated amounts of such retained revenues for the purpose of the authorization of appropriations only, but not for the purpose of determining the amounts authorized to be appropriated in applying the provisions of sections of this title.

INTERAGENCY TRANFERS

Sec. 810. When so specified in an appropriation Act, funds authorized to be appropriated for operating expenses pursuant to an annual authorization Act may be transferred to other agencies of the Federal Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred: Provided however, That the provisions of this title shall continue to apply to such merged funds.

PERSONNEL EXPENSES

Sec. 811. Appropriations authorized by any authorization Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law.

INTERNATIONAL AGREEMENTS

Sec. 812. The Secretary may, in implementing an international agreement relating to research, development, and demonstration activities, limit the award of procurement contracts, grants, and cooperative agreements under such international agreement among the domestic agents or domestic organizations of nations or groups of nations funding such activities under such international agreement.

MILITARY APPLICATIONS

Sec. 813. (a) Nothing in this Act shall apply with respect to any authorization in any other law for appropriations for fiscal year 1980 for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b) For purposes of subsection (a):

(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2121, 2122).

(2) The term "research and development", as used in this section is defined by section 11x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

REPEAL

Sec. 814. Section 201 of the Department of Energy Act of 1978—Civilian Applications (Public Law 95–238, February 25, 1978) is repealed effective September 30, 1979.

TITLE IX—MISCELLANEOUS PROVISIONS

NATIONAL PETROLEUM RESERVE, ALASKA

Sec. 901. (a) There is hereby authorized for appropriation to the Secretary of the Interior for fiscal year 1980 the sum of $240,000,000, to be available until expended, for the purpose of continuation and completion of the exploration program for the National Petroleum Reserve, Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (Public Law 94–258).

(b) The Secretary of the Interior is authorized and directed to continue and complete the full exploration program for the National Petroleum Reserve, Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (Public Law 94–258) by continuing actively the exploratory drilling program and associated activities in fiscal year 1980 with any available funds, including any appropriations pursuant to the authorization in subsection (a) of this section. Upon completion of the full exploration program, the Secretary shall submit promptly, not later than six months after completion of the program, a full report to the President and the Congress on the detailed results of the exploration program, conclusions regarding potential hydrocarbon reserves, and recommendations for accelerated Federal leasing of Federal lands on the Reserve to private industry for purposes of further exploration, development and production.

(c) The Secretary shall not implement the proposal (1) to terminate effectively the exploration program for the National Petroleum Reserve, Alaska, upon completion of exploratory drilling in fiscal year 1979, (2) to make final conclusions with regard to the potential hydrocarbon reserves and recommendations for Federal leasing of Federal lands on the Reserve, based only on results of the exploration program through fiscal year 1979, and (3) to make final administration decisions on Federal leasing of Federal lands on the Reserve, based on the aforementioned conclusions and recommendations in clause (2).

(d) Nothing in this section shall be construed as prohibiting an interim report by the Secretary of the Interior on the interim results of the exploration program through fiscal year 1979 and interim conclusions regarding potential hydrocarbon reserves, or interim planning and preparations during fiscal year 1980 for accelerated Federal leasing of Federal landsion the Reserve upon completion of the full exploration program required by subsection (a) of this section.

2. Amend the title so as to read:

A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes.

I. PURPOSE OF THE MEASURE

The purpose of S. 688 is to authorize appropriations for the civilian programs of the Department of Energy for fiscal year 1980.

The measure as reported by the Committee authorizes $7,743,296,000 for the civilian programs of the Department of Energy for fiscal year 1980, compared to the President's budget request of $6,538,712,000. The Committee's recommendation is for an increased authorization of $1,444,584,000 for the civilian programs of the Department of Energy, which is consistent with its March 15 report to the Senate Budget Committee.

Because S. 688 and the Committee's recommendations include multi-year authorizations for plant and capital equipment construction projects, the Committee's recommendations distinguish between recommended total authorizations and recommended fiscal year 1980 increments. (See summary table by title of S. 688 for the Committee's recommendations for program authorizations for operating expanses, for capital equipment not related to construction, and for plant and capital equipment construction projects.)

In addition to authorizing fiscal year 1980 appropriations for the civilian programs of the Department of Energy, S. 688 as reported in Title IX authorizes funds ($240,000,000) for continuation in fiscal year 1980 of exploration of the National Petroleum Reserve in Alaska by the Department of the Interior. Thus the bill as reported by the Committee authorizes $7,983,296,000 for the combined programs of the Departments of Energy and of the Interior.

The Committee also concurs in the recommendation of the Congress in the first Concurrent Budget Resolution that $1 billion of existing budget authority for the Strategic Petroleum Reserve, which could not be obligated in fiscal year 1980, be rescinded rather than carryover from fiscal year 1980 to 1981 as is anticipated. However, the Committee did not credit this recision against other program authorizations.

SUMMARY OF S. 688 BY TITLE

	Fiscal year 1980 President's budget			Committee action					
				Increase/decrease			Total		
	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay
TITLE I—RESEARCH AND DEVELOPMENT									
Fossil energy (271), subtotal	747,642	747,642	750,482	224,800	222,800	105,205	972,442	970,442	855,687
Operating	664,992	664,992	696,672	92,700	92,700	62,205	757,692	757,692	758,877
Capital equipment	5,600	5,600	5,460	0	0	0	5,600	5,600	5,460
Plant	77,050	77,050	48,350	132,100	130,100	43,000	209,150	207,150	91,350
Nonfossil energy (271), subtotal	2,375,770	2,419,020	2,394,140	328,600	305,000	288,550	2,704,370	2,724,020	2,678,690
Operating	2,015,599	2,020,599	2,018,934	220,600	250,600	273,250	2,236,199	2,271,199	2,292,184
Capital equipment	121,631	121,631	111,571	2,800	2,800	2,000	124,431	124,431	109,571
Plant	238,540	276,790	263,635	105,200	51,600	13,300	343,740	328,390	276,935
Uranium enrichment process development (271), subtotal	95,430	95,430	92,250	0	0	0	95,430	95,430	92,250
Operating	77,400	77,400	76,300	0	0	0	77,400	77,400	76,300
Capital equipment	5,030	5,030	4,950	0	0	0	5,030	5,030	4,950
Plant	13,000	13,000	11,000	0	0	0	13,000	13,000	11,000
Geothermal resources development fund (271), subtotal	288	6,288	1,000	0	0	0	288	6,288	1,000
Operating	288	6,288	1,000	0	0	0	288	6,288	1,000
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Subtotal: Energy supply (271)	3,219,130	3,268,380	3,237,872	553,400	527,800	390,955	3,772,530	3,796,180	3,627,627
Operating	2,758,279	2,769,279	2,792,906	313,300	343,300	335,455	3,071,579	3,112,579	3,128,361
Capital equipment	132,261	132,261	121,981	2,800	2,800	2,000	135,061	135,061	119,981
Plant	328,590	366,640	322,985	237,300	181,700	53,500	565,890	543,540	379,285

Conservation (272), subtotal	197,519	197,519	187,119	82,600	69,800	51,600	280,119	267,319	238,719
Operating	194,919	194,919	185,219	67,500	67,500	50,400	262,419	262,419	235,619
Capital equipment	2,600	2,600	1,900	0	0	0	2,600	2,600	1,900
Plant	0	0	0	15,100	2,300	1,200	15,100	2,300	1,200
Basic sciences (251), subtotal	677,538	474,138	422,738	0	0	0	677,538	474,138	422,738
Operating	337,638	337,638	332,038	0	0	0	337,638	337,638	332,038
Capital equipment	45,700	45,700	38,800	0	0	0	45,700	45,700	38,800
Plant	294,200	90,800	51,900	0	0	0	294,200	90,800	51,900
Total: Title I	4,094,187	3,940,037	3,847,729	636,000	597,600	442,555	4,730,187	4,537,637	4,289,084
Operating	3,290,836	3,301,836	3,310,163	380,800	410,800	385,855	3,671,636	3,712,636	3,969,018
Capital equipment	180,561	180,561	162,681	2,800	2,800	2,000	183,361	183,361	160,681
Plant	622,790	457,640	374,885	252,400	184,000	54,700	875,190	641,640	432,385

TITLE II—REGULATION AND INFORMATION AND OTHER ACTIVITIES

Regulation and information (276), subtotal	295,490	319,246	313,598	4,942	4,942	4,942	300,432	324,188	318,540
Operating	295,490	319,246	313,598	4,942	4,942	4,942	300,432	324,188	318,540
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Strategic petroleum reserves (274), subtotal	8,391	8,391	1,960,700	0	0	0	8,391	8,391	1,960,700
Operating	8,391	8,391	1,960,700	0	0	0	8,391	8,391	1,960,700
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Total: Title II	303,881	327,637	2,274,298	4,942	4,942	4,942	308,823	332,579	2,279,240
Operating	303,881	327,637	2,274,298	4,942	4,942	4,942	308,823	332,579	2,279,240
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0

SUMMARY OF S. 688 BY TITLE—Continued

	Fiscal year 1980 President's budget			Committee action					
				Increase/decrease			Total		
	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay
TITLE III—COMMERCIALIZATION AND RELATED ACTIVITIES									
Energy supply (271), subtotal	50,274	83,774	82,224	116,500	216,500	151,500	166,774	300,274	233,724
Operating	50,274	83,774	82,224	116,500	216,500	151,500	166,774	300,274	233,724
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Energy conservation (272), subtotal	30,116	231,966	357,391	12,800	12,800	11,700	42,916	244,766	369,091
Operating	30,116	231,966	357,391	12,800	12,800	11,700	42,916	244,766	369,091
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Total: Title III	80,390	315,740	439,615	129,300	229,300	163,200	209,609	545,040	602,815
Operating	80,390	315,740	439,615	129,300	229,300	163,200	209,609	545,040	602,815
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0

TITLE IV—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES									
Energy supply (271), subtotal	164, 392	164, 392	164, 386	0	0	0	164, 392	164, 392	164, 386
Operating	164, 392	164, 392	164, 386	0	0	0	164, 392	164, 392	164, 386
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Other (276), subtotal	6, 368	6, 368	5, 968	0	0	0	6, 368	6, 368	5, 968
Operating	6, 368	6, 368	5, 968	0	0	0	6, 368	6, 368	5, 968
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Total: Title IV	170, 760	170, 760	170, 354	0	0	0	170, 760	170, 760	170, 354
Operating	170, 760	170, 760	170, 354	0	0	0	170, 760	170, 760	170, 354
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
TITLE V—NUCLEAR ASSESSMENT, SPENT FUEL DISPOSITION, OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING									
Title V: Total (271)	120, 603	120, 603	108, 063	300, 000	25, 000	2, 500	420, 603	145, 603	110, 563
Operating	114, 993	114, 993	104, 653	0	0	0	114, 993	114, 993	104, 653
Capital equipment	3, 110	3, 110	2, 910	0	0	0	3, 110	3, 110	2, 910
Plant	2, 500	2, 500	500	300, 000	25, 000	2, 500	302, 500	27, 500	3, 000

SUMMARY OF S. 688 BY TITLE—Continued

	Fiscal year 1980 President's budget			Committee action					
				Increase/decrease			Total		
	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay
TITLE VI—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES									
Energy conservation (272), subtotal	116,675	116,675	102,075	2,375	2,375	0	119,050	119,050	102,075
Operating	116,675	116,675	102,075	2,375	2,375	0	119,050	119,050	102,075
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Other energy (276), subtotal	9,135	9,135	8,835	14,500	14,500	11,000	23,635	23,635	19,835
Operating	9,135	9,135	8,835	14,500	14,500	11,000	23,635	23,635	19,835
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Energy impact (450), subtotal	0	0	5,000	0	120,000	35,000	0	120,000	40,000
Operating	0	0	5,000	0	120,000	35,000	0	120,000	40,000
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0
Title VI: Total	125,810	125,810	115,910	16,875	136,875	46,000	142,685	262,685	161,910
Operating	125,810	125,810	115,910	16,875	136,875	46,000	142,685	262,685	161,910
Capital equipment	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0

TITLE VII—OTHER DEPARTMENTAL ACTIVITIES

Energy supply (271), subtotal	1,230,498	1,343,473	1,220,198	105,300	105,300	105,000	1,335,798	1,448,773	1,325,198
Operating	871,798	871,798	864,098	105,300	105,300	105,000	977,098	977,098	969,098
Capital equipment	30,200	30,200	27,500	0	0	0	30,200	30,200	27,500
Plant	328,500	441,475	328,600	0	0	0	328,500	441,475	328,600
Other energy (276), subtotal	412,583	417,583	391,003	12,167	−1,333	−3,333	424,750	416,250	387,670
Operating	361,368	366,368	363,868	−5,833	−3,833	−3,833	355,535	362,535	365,035
Capital equipment	4,815	4,815	4,815	0	0	0	4,815	4,815	4,815
Plant	46,400	46,400	17,320	18,000	2,500	500	64,400	48,900	17,820
Title VII: Total	1,643,081	1,761,056	1,611,201	117,467	103,967	101,667	1,760,548	1,865,023	1,712,868
Operating	1,233,166	1,238,166	1,232,966	99,467	101,467	101,667	1,332,633	1,339,633	1,334,133
Capital equipment	35,015	35,015	32,315	0	0	0	35,015	35,015	32,315
Plant	374,900	487,875	345,920	18,000	2,500	500	392,900	490,375	346,420
Total, DOE	6,538,712	6,761,643	8,567,170	1,204,584	1,097,684	760,864	7,743,296	7,859,327	9,326,834
Title IX: Miscellaneous provisions	0	4,427	4,427	240,000	240,000	160,000	240,000	244,427	164,427
Total: S. 688	6,538,712	6,766,070	8,571,597	1,444,584	1,337,684	920,864	7,983,296	8,103,754	9,491,261

For the purpose of the Congressional Budget Act, the authorizations in S. 688 fall primarily within the budget functions of General Sciences and Research (250) and Energy (270) as well as Community and Regional Development (450). (See summary table) The Committee recommends an increase of $1,444,584,000 in the authorization for the Energy function (270) above the President's proposed fiscal year 1980 budget. Because numerous of the authorizations are multi-year the Committee's recommended increment for fiscal year 1980 for the Energy function is $1,217,684,000 with the difference occurring in subsequent years. The accompanying increase in fiscal year 1980 outlays would be an estimated $885,864,000.

SUMMARY OF S. 688 BY BUDGET FUNCTION

	Fiscal year 1980 President's budget			Committee action					
				Increase/decrease			Total		
	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay
General science and research (251)	677,538	474,138	422,738	0	0	0	677,538	474,138	422,738
Energy supply (271)	4,784,897	4,985,049	4,817,170	1,315,200	1,114,600	809,955	6,100,097	6,099,649	5,627,125
Energy conservation (272)	344,310	546,160	646,585	97,775	84,975	63,300	442,085	631,135	709,885
Emergency preparedness (274)	8,391	8,391	1,960,700	0	0	0	8,391	8,391	1,960,700
Other energy (276)	723,576	752,332	719.404	31,609	18,109	12,609	755,185	770,441	732,013
Subtotal: Energy (270)	5,861,174	6,291,932	8,143,859	1,444,584	1,217,684	885,864	7,305,758	7,509,616	9,029,723
Community and regional development (450)	0	0	5,000	0	120,000	35,000	0	120,000	40,000
Total: S. 688	6,538,712	6,766,070	8,571,597	1,444,584	1,337,684	920,864	7,983,296	8,103,754	9,491,261
Subtotal: DOE	6,538,712	6,761,643	8,567,170	1,204,584	1,097,684	760,864	7,743,296	7,859,327	9,326,834
Subtotal: DOI	0	4,427	4,427	240,000	240,000	160,000	240,000	244,427	164,427

The recommendations of the Committee on Energy and Natural Resources are summarized in the following tables. The discussion of their budgetary impact appears in section VIII of this report.

II. BACKGROUND AND NEED

Since Senate recognition in 1970 of an emerging energy crisis and the subsequent oil embargo in 1973, major initiatives have been taken by the Congress toward formulation of a comprehensive National Energy Policy. Significant program authorizations were provided in the areas of energy research and development, petroleum pricing and allocation, contingency planning for energy shortages or embargoes, loan guarantees for synthetic fuels, energy conservation, and increased domestic energy production.

During the 95th Congress the Department of Energy was established to consolidate Federal energy programs. And, the National Energy Act legislation was enacted with the objectives of reducing our increasingly critical dependence upon diminishing supplies of oil and gas, encouraging conservation of scarce energy resources, stimulating conversion to more abundant fuels, and reducing our large trade deficit. The National Energy Act incorporated several major energy policy initiatives in the areas of energy conservation, greater coal utilization, natural gas pricing, and utility rate reform.

The President's proposed fiscal year 1980 budget reflects this reorganization as well as enactment of the National Energy Act; however, in the Committee's judgment, the President's proposed fiscal year 1980 budget for the civilian programs of the Department of Energy does not adequately reflect the need for domestic energy supply initiatives which need was reinforced by the recent interruption of Iranian oil supplies. On the basis of its evaluation the Committee proposes the budget changes set forth herein as a better reflection of national energy needs and priorities.

III. SUMMARY OF MAJOR PROVISIONS

RESEARCH AND DEVELOPMENT (TITLE I)

FOSSIL ENERGY (SECTION 101)

COAL (SECTION 101(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $662,663,000 for coal research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $868,463,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Coal Liquefaction (Section 101(a)(2))

The Committee recommends an increase in operating expense of $7 million for the coal liquefaction program, for a total budget authority of $129,006,000. These increased funds will provide for the phase "0" work on an H–Coal demonstration plant.

The Committee recommendation to add $7 million will provide for the initial design work on a demonstration plant for the H–Coal process to begin in parallel with the operation of the H–Coal process pilot plant in Catlettsburg, Kentucky. This parallel scheduling is consistent with the standard development strategy for an aggressive program to demonstrate technology. This technology could provide, in addition to the Donor Solvent process, another environmentally acceptable way of utilizing coal. The H–Coal and the Donor Solvent processes are two liquefaction technologies which have been developed by the Department in parallel. The Donor Solvent process is now preparing to start up a comparable pilot plant in Baytown, Texas. While the budget provides for the initial study of a pioneer Donor Solvent plant, no such funding appears in the H–Coal budget. The Committee amendment provides for the aggressive development of the H–Coal technology as well as the Donor Solvent technology.

Surface Coal Gasification (Section 101 (a)(3))

The Committee took action with regard to the Surface Coal Gasification Program which would result in a $19 million reduction as follows:

The Committee recommends an addition of $3 million in operating expenses for component development work for possible use in all coal conversion plants, but specifically targeted for the development of dry high pressure feed systems. Because the development of a universal feed system to service the wide variety of gasification systems appeared unlikely, three parallel feeder system developments have been initiated, each designed to feed a different coal size and type.

Under the Administration's proposed fiscal year 1980 budget, the DOE coal feed system development effort will come to a halt by the end of fiscal year 1979. As a result, all current efforts would be prematurely terminated by September, 1979. It is the Committee's recommendation that funding for the proposed DOE Coal/Solids Handling and Feed System Program should be continued in fiscal year 1980, in order to insure the availability of proven feeder technology for producing liquid and gaseous fuels from coal.

The Committee also recommends reducing the funding for the gasification system test facility by $15 million, by eliminating the entire authorization for this new facility for fiscal year 1980. DOE has attempted to cancel or delay almost all of the demonstration plants for new coal technologies. Simultaneously they have sought to begin the design of a multi-purpose Gasification Test Facility, which would have the flexibility to test the various components of a coal conversion demonstration plant. While this type of facility has been proposed before, no formal design or cost estimate has yet been presented to the Congress.

Because of the very preliminary nature of the test facility concept and the unknown total estimated cost of the facility, in addition to the radical change in demonstration philosophy by the DOE, the Committee proposes that the budget for this facility be reduced by the total amount requested, $15 million.

This reduction will not adversely affect the project, because these new funds could not be spent in fiscal year 1980. DOE estimates that the conceptual engineering design of the facility will take 18 months and cost $8 million. DOE will not be prepared to begin this conceptual design until later this summer. Therefore, the conceptual design which must precede any long lead procurement or site preparation will not be finished until the end of fiscal year 1980.

Finally, DOE says that they will reprogram all of the funds from the cancelled Powerton project to this facility. This will mean that up to $30 million might be available for the facility in fiscal year 1980.

However, the Committee will have to examine any detailed proposal by the Department. With regard to the funds previously appropriated for the Powerton project, the Committee directs DOE to notify it as soon as any determination is made with regard to how this money will be spent. This notification must be made before any commitment of these funds to any other subprogram, activity or subactivity by the Department.

The Committee also recommends that the budget for the third generation coal gasification research and development work be reduced by $5 million. This is equal to an amount that will be contributed by industry, in their cooperative program with the Department for the development of these advanced gasification technologies. This reduction will not affect the pace of the program.

In addition the Committee recommends reducing the amount budgeted for low-Btu fluidized bed gasification (pressurized), by $2 million. This reduction will equal the amount to be contributed by industry, for this program. Similarly, this reduction will not affect the pace of the program.

Peat Gasification and Peat Gasification Development Activities (Section 103(a)(4))

The Committee adopted an amendment providing $6.7 million for additional effort in the peat gasification and related activity program. The administration budget included no funding for this activity in fiscal year 1980, based on a stretch out over several years of the fiscal year 1979 Congressionally mandated program. The Committee's action will ensure accelerated development of peat gasification technology and resource assessment in several additional promising areas of the country, including Alaska, where there are significant peat resources. The Committee intends that this amendment will constitute rejection of the Administration proposed stretchout of the program, and a reassertion of the Congressional intent for DOE to pursue an accelerated program of peat gasification technology and related activity.

In-situ Coal Gasificatiion (Section 101(a)(5))

The Committee recommends an additional $5 million for the in situ coal gasification program, for the addition of another project.

This additional money will permit the initiation of a second site, high-Btu coal gasification pilot test. The Western coal program has only one test in fiscal year 1979, at Hoe Creek, Wyoming. Problems have required this test to be limited in duration and scope, and therefore, may not be as conclusive as necessary to interest investors. The Committee recommends these additional funds for a second site in order to insure the necessary information for commercialization.

These funds will provide for the initial activities required for a second test including environmental analysis, site characterization and preliminary site activities.

Heat Engines and Heat Recovery (Section 101(a)(8))

The Committee recommends an addition of $4.5 million for heat engines and heat recovery in the thermionics program. The Committee last year recommended an addition of $4.5 million for the thermionics program. The President's budget request for fiscal year 1980 anticipates no additional funds for thermionics, and would stretch the funding for fiscal year 1979 over two years. The Committee action will allow this technology to be continued at last year's level of funding. These funds will provide for the continuation of materials research and technology, and evaluation of a thermionic power module. The ultimate goal of the program will be to conduct a retrofit demonstration of a thermionic device on a power plant or boiler.

The Committee wishes to emphasize that the development of the thermionic technology for energy systems must be done with clear utility and industry participation. The end user must be fully incorporated at the earliest possible point in the development of this technology. Early inclusion will provide the smoothest path for transfer of this technology from the research lab to commercial implementation.

Combustion Systems (Section 101(a)(9))

The Committee recommends an addition of $1.5 million to provide operating expenses for an additional atmospheric fluidized bed, small-scale demonstration. The Committee recommends that these funds be used for additional demonstration of small scale industrial application of the atmospheric fluidized bed technology, utilizing an advanced design, or significant improvement on the existing systems. For example, demonstrating two stage combustion, or increased ability to capture emissions in the combustion process would be valuable.

The Committee recommends that the DOE provide sufficient funds for the demonstration of a state-of-the-art gas turbine at the fluidized bed combustion facility at Leatherhead, England.

Last year the Appropriations Committee (Senate Report 95-1063) put in a requirement that DOE reprogram up to $5 million for a PFB combined cycle test at the International Energy Agency (IEA) facility at Leatherhead. This was in response to an addition by the Senate Energy Committee to the fiscal year 1979 authorization. To date, DOE has not been able to accomplish this even though the proposal remains sound. It is suggested that this should be a joint effort of all three parties participating in the IEA facility (USA, England, and West Germany), which will, of course, significantly reduce the cost to each.

Fuel Cells (Section 101(a)(10))

The Committee voted to increase the requested authorization for operating expenses by $10 million for technology support for fuel cells. The budget for the technology support subprogram was reduced significantly from $15 million in FY 1979 to $5 million in the fiscal year 1980 request. The Committee acted to increase the funding for this part of the fuel cell program to significantly advance the phosphoric acid technology by improving the efficiency and lowering the cost of electricity. This action will provide for a parallel development to coincide with the operation of the 4.8-MWe fuel cell powerplant which is located in New York City.

Magnetohydrodynamics (Section 101(a)(11))

The Committee recommends adding a total of $58 million for MHD technology operating expenses to accelerate significantly this program. Adding this money raises the fiscal year 1980 budget to $130 million, while the budget recommended by the Administration of $72 million would represent approximately a 20 percent reduction from the fiscal year 1979 budget, counting the effect of inflation. After examining the proposed budget in extensive hearings, the Committee decided that this budget level would not advance this program from research to the engineering phase.

The Ad Hoc MHD Review Board recommended that DOE together with the utilities define "the technical and economic characteristics of a first generation commercial MHD system". The Board further recommended that the Engineering Test Facility design should be fully specified so that the CDIF and the CFFF programs will have specific technical goals and milestones to achieve. To pursue this systematic approach, the Committee, first of all, specifically set aside $1.5 million for a systematic environmental impact statement to be initiated for the Engineering Test Facility.

The Committee recommends that the increased funding be used by the Department in the following ways: The Committee recommendations are:

(1) to add $10 million for an accelerated combustor program, which will include $3 million for integrated combustor channel testing;

(2) that $20 million of this increase should go toward expansion of the generator development program to encourage more competitors to the existing designs, on parallel paths;

(3) that there should be a significant increase of $5 million in funding for systems engineering, in order to do the preliminary work which must be performed to integrate the various components which will be tested at the CDIF;

(4) to add $5 million so that the Department can begin immediately the preliminary design work and testing necessary to provide for the long-lead procurement of a magnet for an ETF size facility;

(5) to add $4 million so that the Department of Energy could also begin an aggressive program to study seed reprocessing by beginning an engineering comparison of several possible processes;

(6) to add $5 million so that further work on preheater experimental design for the CDIF can be performed and so that a decision on whether or not to use pure oxygen should be made; and

(7) to add $7.5 million for increased supporting research in the areas of material development, preheaters, and heat exchangers.

COAL-CONSTRUCTION (SECTION 102(a))

SRC I (Section 102(a)(8))

Committee Action: The Committee recommendation is to add $60 million to project 78–2–d, the Solvent Refined Coal (solid) Demonstration Plant.

Last year, the Committee concluded that the Nation needs to build two solvent refined coal demonstration plants: one to produce a clean solid product for existing coal boilers and one plant producing a liquid product for utility boilers now using imported oil. This year, without sufficient justification, DOE has asked to build only one such plant. The Committee believes that we should continue the policy o last year, and build two such plants.

The fiscal year 1979 Appropriations Bill provided a total of $40,000,000 in budget authority for the SRC I demonstration plant. If th construction and operation of the SRC I demonstration plant is t continue on the schedule presently anticipated by the Committee then an additional $60,000,000 in budget authority will be require in fiscal year 1980, to continue engineering work ($25,000,000) an to provide funding for initial contract obligations on long-lead procurement items ($35,000,000).

The proposed site is near Newman, Kentucky. The plant will b designed to process Western Kentucky (#9/14) coal to produce a lo ash, low sulfur, environmentallv acceptable solid fuel that readil substitutes for coal in conventional coal transportation and handlin facilities and burns in coal burning boilers without significant mod fication. The principal market for solid SRC–I is the coal burnin utilities that will be required to install scrubbers or convert to oil or gas to meet environmental standards. The phase zero effort will be concluded on July 10, 1979.

The industrial participant plans to expand this demonstration module, to a 30,000-ton-per-day commercial plant after successful initial operaton.

SRC II (Section 102(a)(6))

Committee Action: The Committee's action adds $45 million for the construction of the Solvent Refined Coal (liquid) (project 79–1–r) demonstration plant. However, the Committee substitute bill includes a provision which would require that the additional appropriations be reduced by an amount equal to contributions from foreign participants.

The plant to be sited near Morgantown, West Virginia will use 6,000 tons per day of Powhatten (Pittsburgh seam) coal to produce a virtually ash-free, low sulphur, liquid fuel that readily substitutes in conventional liquid fuel transportation and handling facilities and burns in oil-fired utility boilers without significant modification. The phase zero effort will be concluded in the spring of 1979.

The additional $45 million would be added to the funds already appropriated ($50 million), for a total of $95 million. These funds would be used to complete the detailed design work and to begin fabrication and order of the long-lead procurement items. Some site preparation work would be done in fiscal year 1980.

The Committee required that these additional appropriations will be reduced by an amount equal to whatever foreign contributions are made to the project. Both Germany and Japan have agreed over time to contribute 25 percent each of the total cost of the plant to the project. Therefore, the Committee desires that this money be credited against whatever appropriation is to be made. The arrangements that have been signed with the Governments of Germany and Japan provide for payments to be made this coming fiscal year and each subsequent year during the construction. The combined contribution of the Governments of Germany and Japan will fund approximately 50 percent of the estimated total cost of the plant.

This plant with full-scale equipment will be designed as one module of a 30,000-ton-per-day commercial plant which is equivalent to a 100,000-barrel-per-day refinery output.

Low Btu Gasification (Section 102(a)(7))

Committee Action: The Committee directs DOE to promptly notify the Committee if the fuel gas, small-scale industrial plant (project 78–2–c) is delayed or canceled and to apprise the Committee prior to acting on any plans to utilize the funds that have been requested for fiscal vear 1980, for any other subprogram, activity, or subactivity. In any event the Committee directs that these funds be used for coal research and development purposes.

Second High Btu Coal Gasification Demonstration (Section 102(a)(9))

Committee Action: The Committee recommendations include $15 million in construction funds for the second high-Btu coal gasification demonstration plant, Project 77–1–b. The Committee supports the construction of a second high-Btu coal gasification demonstration plant.

There is no gasification process which can handle all of the various types of coal found in the United States. Unless multiple plants are selected for construction, DOE will have to make a judgment as to what they believe is the best process based on limited available data and opinions about the prospective performance of a particular proces in a demonstration plant.

The three second-generation high-Btu processes currently being evaluated by DOE for construction of demonstration plants are very different in many respects. The COGAS, the Slagging Gasifier and HYGAS, as well as the regular dry-bottom Lurgi process, will be abl to tap most of the abundant coal resources in the United States.

The nonselected process in the competition for the first demonstration plant will be available to compete for the second plant. The desig of a plant based on the Hygas process will also be in the competition

The Committee recommends that $15 million be included in th DOE fiscal year 1980 budget for construction funds for the secon high-Btu demonstration plant (Project 77–1–b).

Utility Low-Btu Fuel Gas (Section 102(a)(10))

Committee Action: The Committee recommends $6 million for th utility fuel gas coal gasification demonstration plant (project 77–1–c

In fiscal year 1978 two contractors were selected for the negotiation of competitive designs for an advanced demonstration plant to conver high sulphur coal to a low-Btu synthetic fuel gas primarily suite for electric utilities. One of the candidate utilities to be converted is i West Lake, Louisiana and another competitor is in Cabin Creek, We Virginia. Because of the change in scope of the competitive design the cost has increased significantly. Congress had originally appropr ated $3 million in fiscal year 1978, but did not appropriate the r quested $3 million in fiscal year 1979. The total estimated cost for th competitive designs will be approximately $9 million.

Without the needed funds DOE has proposed that the enti competitive design be canceled. The Committee does not feel that th is an appropriate decision, in light of the need for adapting utiliti to the use of coal. Therefore, the Committee recommends an addition $6 million of funding for this project.

Low Btu Gasification (Section 102(a)(12))

The Committee adopted an amendment to authorize an addition $1 million for Project 76–1–C, low/medium BTU Fuel Gas Industri Demonstration Project. The administration has withdrawn support f construction of this project, did not include the project in the fisc year 1980 budget and stated an intention to propose a rescission f carryover funds appropriated for the project. The administration do plan to complete a conceptual design effort, with cost estimat economic assessments, and environmental analyses, for the proje The additional $1 million will support continuation of the desi effort in fiscal year 1980, including more detailed engineering desi of the project pending final resolution of the future of the project. T Committee believes that it is premature to withdraw support for th low/medium BTU industrial project, because the industrial gas mark and the overall natural gas market are not in such a stabilized con tion to make an informed conclusion and are not likely to be for son time. In the face of these uncertainties, the project should be continu in fiscal year 1980, at least through detailed engineering design.

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Combustion Systems (Section 102(2)(4))

The Committee recommends an amendment to fund with $3.1 million work on Title I activities for a new project, Project 80–FE–12 (150 MWe, Peat-Fueled Electric Generating Plant). The estimated federal share of the project is $72 million if it is cost-shared on a 50–50 Federal-private basis. At least one such proposal by a North Carolina cooperative utility exists for a peat-fueled generating plant.

COAL

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Mining research and development	75,346	70,093	60,150	60,150	95,740			60,150	60,150	95,740
Coal liquefaction	116,226	120,867	122,006	122,006	67,056	7,000	7,000	129,006	129,006	71,756
Surface coal gasification	89,598	110,814	103,850	103,850	121,550	−19,000	−19,000	84,850	84,850	108,850
Peat gasification and development activity	4,500	1,000	0	0	3,500	6,700	6,700	6,700	6,700	7,900
In situ coal gasification	14,300	14,400	9,900	9,900	9,350	5,000	5,000	14,900	14,900	12,750
Advanced tesearch and technology development	39,646	33,946	38,500	38,500	37,700			38,500	38,500	37,700
Advanced environmental control technology	7,000	3,500	42,450	42,450	23,600			42,450	42,450	23,600
Heat engines and heat recovery	57,800	50,636	45,800	45,800	62,800	4,500	4,500	50,300	50,300	65,800
Combustion systems	58,176	64,997	57,400	57,400	73,400	1,500	1,500	58,900	58,900	74,405
Fuel cells	40,500	32,306	19,500	19,500	17,250	10,000	10,000	29,500	29,500	23,950
Magnetohydrodynamics	76,500	75,735	72,000	72,000	66,040	58,000	58,000	130,000	130,000	105,040
Clean boiler fuel reduction	−12,810	0	0	0	0			0	0	0
Program direction	10,255	10,611	11,057	11,057	11,057			11,057	11,057	11,057
Subtotal, operating	577,037	588,905	582,613	582,613	589,043	73,700	73,700	656,313	656,313	638,548
Subtotal, capital equipment	3,920	3,380	3,000	3,000	3,410			3,000	3,000	3,410
Subtotal, plant	49,000	31,600	77,050	77,050	48,350	132,100	130,100	209,150	207,150	85,550
Total, coal	629,957	623,885	662,663	662,663	640,803	205,800	203,800	868,463	866,463	730,508

COAL

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-FE-1	Technology transfer building, Bartlesville Energy Research Center Oklahoma	3,000	0	0	3,000	3,000	1,500			3,000	3,000	1,500
80-FE-2	Renovation and upgrading of building B-1, Morgantown Energy Research Center, West Virginia	1,750	0	0	1,750	1,750	1,500			1,750	1,750	1,500
80-FE-3	Program support facility, Pittsburgh Energy Research Center, Pennsylvania	8,800	0	0	1,700	1,700	750			1,700	1,700	750
80-FE-12	Peat fuel combustion system, North Carolina	150,000	0	0	0	0	0	3,100	3,100	3,100	3,100	2,800
80-GPP-1	General plant projects	5,600	0	0	5,600	5,600	2,600			5,600	5,600	2,600
79-1-r	SRC-II demonstration plant, Morgantown, W. Va.	584,000	50,000	50,000	0	0	6,000	45,000	45,000	45,000	45,000	15,000
78-2-c	Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	25,000	24,000	9,600	10,000	10,000	7,700			10,000	10,000	7,700
78-2-d	SRC-I demonstration plant, Owensboro, Ky.	584,000	30,000	40,000	0	0	6,000	70,000	60,000	70,000	60,000	18,000
77-4-b	Second high Btu coal gasification demonstration		10,000	2,000	0	0	0	7,000	15,000	7,000	15,000	3,000
77-1-c	Low Btu fuel gas demonstration plant	9,000	5,000	0	0	0	0	6,000	6,000	6,000	6,000	1,200
76-1-b	High Btu synthetic pipeline, gas	500,000	95,000	53,000	55,000	55,000	34,300			55,000	55,000	34,300
76-1-c	Low medium Btu fuel industrial demonstration plant	302,000	150,000	50,000	0	0	0	1,000	1,000	1,000	1,000	200
	Total, coal		364,000	204,600	77,050	77,050	60,350	132,100	130,100	209,150	207,150	88,550

PETROLEUM (SECTION 101(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $57,386,000 for petroleum research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $66,386,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Oil Shale (Section 101(b)(2))

The Committee added $9 million in operating expenses for the Oil Shale program, for the continuation of the oil shale demonstration module.

In Section 19 of the Federal Non-nuclear Energy Research and Development Act the Congress authorized DOE to construct an oil shale module to demonstrate the feasibility and environmental factors associated with oil shale production. In the fiscal year 1979 appropriation bill, $15 million was provided to fund a competitive design study.

The Department requested no funds for the module in fiscal year 1980 because of a decision to rely on the President's proposal for a $3 per barrel tax credit for the production of shale oil. This tax credit is proposed to be supported by funds from the windfall profits tax. Therefore, the demonstration program has been delayed at least one year while the Administration pushes for alternative legislation.

Committee Action: So that the demonstration module can proceed on a parallel course, with the attempt to enact tax incentives, the Committee proposes an addition of $9 million for the continuation of this demonstration module program. This will be sufficient funds for a winner of a competition bid to proceed to systems and engineering design for a demonstration module.

The Committee also notes that DOE is pursuing the development of a module using surface retorting technology. Funding for the oil shale demonstration module is appropriated pursuant to the authorization contained in Section 19 of the Federal Non-Nuclear Energy Research Act. Since the Act was written over three years ago, some in situ retorting techniques have advanced significantly and may, in fact, be ready to compete for the award of this module. Therefore, the Committee recommends that DOE to consider both surface and in situ participants when conducting the competition for this module.

The Committee is impressed with the potential benefits of hydroretorting of shale, which is applicable to both Eastern and Western shales. Last year the Appropriations Committee set aside $2.7 million for this process, and the Committee believes that this level of funding should be continued. Therefore the Committee directs that $2.7 million of the approved funds be used to investigate innovative aboveground hydroretorting capable of processing both Eastern and Western shale deposits.

The Committee is also concerned that DOE is not investigating the possibility of using a guaranteed price to help commercialize our Nation's oil shale resources. The Committee wishes DOE to diligently investigate this and other possibilities and report back to the Committee on their findings.

PETROLEUM

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Enhanced oil recovery	53,372	46,482	20,900	20,900	33,800			20,900	20,900	33,800
Oil shale	47,700	47,763	27,000	27,000	28,200	9,000	9,000	36,000	36,000	34,200
Drilling and offshore technology	2,600	2,938	3,000	3,000	2,000			3,000	3,000	2,000
Advanced process technology	2,200	1,300	3,500	3,500	2,750			3,500	3,500	2,750
Program direction	679	683	786	786	786			786	786	786
Subtotal, operating	106,551	99,166	55,186	55,186	67,536	9,000	9,000	64,186	64,186	73,536
Subtotal, capital equipment	1,600	1,200	2,200	2,200	1,750			2,200	2,200	1,750
Subtotal, plant	0	0	0	0	0			0	0	0
Total, petroleum	108,151	100,366	57,386	57,386	69,286	9,000	9,000	66,386	66,386	75,286

GAS (SECTION 101(C))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $27,593,000 for gas research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $37,593,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Enhanced Gas Recovery (Section 101(c))

The Committee recommends adding $10 million for work on Eastern and Western formations.

The addition of $4 million would fund an experiment to understand how the gas occurs in the Eastern Devonian shale formations, either in the shale matrix or simply in the fractured porosity. This knowledge would dramatically affect the estimates of the amount of gas that can be recovered and therefore the economics of the enterprise. The experiment would consist of a series of carefully monitored exploratory wells.

Similarly, $6 million for the Western tight gas sands would be used to answer questions concerning fracturing and rock mechanics, which have also been inhibiting commercialization there. The objective of fracturing a well is to link up many small, widely spaced gas pockets. The requested funds will be used for a highly instrumented test to determine many of the parameters of the region's geology, and the ability to control fractures. The experiment will be using state of the art fracturing techniques, so as to maximize the potential for commercialization of the results.

GAS

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Enhanced gas recovery	33,403	39,729	26,910	26,910	39,810	10,000	10,000	36,910	36,910	46,510
Program direction	260	260	283	283	283			283	283	283
Subtotal, operating	33,663	39,989	27,193	27,193	40,093	10,000	10,000	37,193	37,193	46,793
Subtotal, capital equipment	200	200	400	400	300			400	400	300
Subtotal, plant	0	0	0	0	0			0	0	0
Total, gas	33,863	40,189	27,593	27,593	40,393	10,000	10,000	37,593	37,593	47,093

NON-FOSSIL ENERGY SUPPLY RESEARCH AND DEVELOPMENT (SECTION 104)

SOLAR (SECTION 104(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $471,061,000 to support an appropriation of $481,761,000 for solar research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $538,061,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Solar Applications (Section 104(a)(1))

Systems Development

The Committee recommends the budget authority for systems development be increased by $7,000,000 to provide for 8 to 10 additional solar heating and cooling systems development field experiments ($5,000,000) and further development on solar assisted heat pumps ($2,000,000).

The Committee requests that DOE investigate the economic viability of the on-site construction of active solar energy systems and report their findings to the Committee.

The Committee recommends to the Appropriations Committee that $30 million be appropriated to fund the Federal Photovoltaic Utilization Program authorized in title V, part 4, of Public Law 95–619.

Solar Technology (Section 104(a)(2))

Photovoltaic Energy Development

Committee Action: The Committee recommends that the Test and Applications Subprogram be increased by $20,000,000 to fund additional first cycle photovoltaic flat plate and concentrator experiments.

The Committee includes $5.5 million for a photovoltaic higher education exemplar facility which was partially funded in fiscal year 1979 appropriations. In fiscal year 1979 appropriations were made for a photovoltaic National Higher Education Exemplar Facility. The Committee includes fiscal year 1980 funding for such a facility in order to further demonstrate the effectiveness and flexibility of photovoltaic technology.

The DOE should evaluate the cost of the solar system separately from the capital construction costs (of the building) and determine what savings are made by an integration of the solar system with the building structure.

Wind Energy Conversion Systems

Committee Action: The Committee increased the fiscal year 1980 authorization in budget authority for Wind Energy Conversion Systems (WAES) by $30.50 million for a total of $97.50 million. Most of these funds are to be applied to the various program elements that support the research and development program within the Office of Energy Technology. In addition, $2.50 million is to be transferred to and administered by the Resource Manager for Small Wind Systems, and $5.15 is to be transferred to and administered by the Resource Manager for Large Wind Systems, to support wind commercialization activities.

The Committee allocated the $30.50 million increase as follows:

Mission Analysis.—No change from the fiscal year 1980 budget for a total of $1.8 million.

Applications Analysis.—An increase of $800,000 for a total of $2 million, of which $125,000 will be used to continue the Naval program in applications analysis.

This increased budget authority includes $300,000 for an increased level of effort for "systems" studies which analyze load factors, including non-utility loads (e.g., industrial process heat and pumped hydro.) In addition, $500,000 is to be used to initiate a pilot program to provide planning grant support for end users of WECS, such as state governments or certain industrial sectors.

Social/Legal/Environmental Issues.—No change for a total of $600,000. The Committee recommends that the programs in this category be directed to the Wind Resource Managers in the future and that $125,000 be used to continue the Naval program to study social, legal, and environmental issues.

Wind Characteristics.—An increase of $1.2 million for a total of $4.6 million. This increase provides for the acceleration of wind use assessments and includes $500,000 to continue the Naval program in wind use assessments.

Technology Development.—An increase of $3.5 million for a total of $10.5 million. This increment is intended for: (1) increased testing of wind machines involving free stream and wind tunnel tests. Included here is $500,000 for a national wind energy test facility that could test wind machines of varying sizes under a range of environmental conditions and at different speeds of wind flow; (2) pursuit of advanced and applied component development and of applied research (on rotors, generators, gear boxes, and towers); and (3) encouragement of unsolicited proposals.

Innovative Concepts.—No change, for a total of $2.2 million.

Small Scale Systems.—An increase of $8.5 million for a total of $29 million. This increment is intended for an increased level of effort across the small machine program including tests of additional commercially available machines, follow-on contracts to the first round of small machines development, an expanded field evaluation program, initial development of machines in the upper end of the small machine range (i.e. 60 Kwe), a program concerning machine support research and technology, and at least $1 million for the initiation of a small grants program to encourage private sector innovation.

Intermediate Scale Systems.—An increase of $1.15 million for a total of $7.3 million. This addition provides for a modest increase in level of effort for the choice of multiple contactors.

Large Scale Systems.—An increase of $7.70 million for a total of $31.85 million. Recognizing the desirability of developing parallel designs for large wind systems, the Committee identified the following area for receipt of the additional authorization: (1) $4 million for a fourth MOD 2 to be integrated with other machines at one site; and (2) $3.70 million for the development of MOD 3, an advanced design second generation megawatt wind turbine.

Small Scale Wind Commercialization.—A sum of $2.50 million should be allocated to the Resource Manager for a Small Scale Wind Commercialization Program. The Resource Manager is directed to provide the Committee with a Small Wind Commercialization Plan by February 1, 1980 so that this information may be included in the Committee's fiscal year 1981 budget considerations. These funds are also intended for: (1) the strategic distribution of anemometers through the Regional Solar Energy Centers or other outreach mechanisms to allow prospective purchasers of small wind systems to test the feasibility of a WECS installation on the respective sites; (2) an analysis of factors and options with regard to warranty and guarantee of machines; and (3) a full assessment of the impact and options for utility rate design associated with both large and small wind systems in distributed applications. The assessment should include mode rates, billing, and metering formats.

Large Scale Wind Commercialization.—A sum of $5.15 million should be allocated to a Resource Manager for a Large Scale Wind Commercialization Program. Of this amount, $3 million is authorized for the purpose of obtaining competitive cost-sharing bids from utilities for two MOD 2 machines to be deployed at different sites, and the procurement of associated long-term lead items. The Resource Manager is also directed to provide the Committee with a Large Wind Commercialization Plan by February 1, 1980, so that this information may be included in the Committee's fiscal year 1981 budget considerations. The remaining funds are intended for: (1) the performance of site-specific feasibility studies by interested utilities that further refine the regional feasibility studies already developed under Energy Technology's wind characteristics program; (2) the coordination and acceleration of site-banking efforts on Federal lands; (3) the establishment of a consolidated wind information center in conjunction with SERI.

Ocean Systems

Committee Action: The Committee recommends an increase of $9,500,000 in budget authority in fiscal year 1980 for the Ocean Systems Program. In making this recommendation, the Committee noted that Ocean Systems was the only solar technology to be reduced in budget request. The increase is necessary to maintain level funding of this program.

The Ocean Systems Program comprises a number of technologies The Committee intends that the additional authorization be applie to activities in the following areas, listed in order of priority:

First, a second deployment of MINI-OTEC to test an evaluate multiple heat exchanger materials and countermeasure for biofouling;

Second, conceptual design studies for a modular 10 mega-wat stationary or cruising OTEC plant with detailed design an construction to be planned in fiscal year 1981;

Third, support of the OTEC Utility Users Council;

Fourth, completion of the Seacoast Test Facility;

Fifth, accelerated research program to develop deepwat transmission cables, and for environmental assessment of OTE plants; and

Sixth, increased support for the Coriolis Program, Oce turbine system to begin the preliminary design work on the te module.

SOLAR

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
SOLAR APPLICATIONS										
Systems development	40,000	39,050	46,000	46,000	42,200	7,000	7,000	53,000	53,000	47,500
Demonstrations:										
Buildings	55,000	69,000	33,500	33,500	42,400			33,500	33,500	42,400
Agricultural and industrial process heat	11,000	11,200	14,000	14,000	12,500			14,000	14,000	12,500
Federal photovoltaic demonstration	15,000	16,100	0	0	12,300		30,000	0	30,000	34,800
Program direction	1,487	1,849	2,117	2,117	2,117			2,117	2,117	2,117
Subtotal, solar applications	122,487	137,199	95,617	95,617	111,517	7,000	37,000	102,617	132,617	139,317
SOLAR TECHNOLOGY										
Solar thermal electric power system	69,100	61,600	81,500	81,500	80,500			81,500	81,500	80,500
Photovoltaics energy development	103,500	91,700	122,700	122,700	113,200	20,000	20,000	142,700	142,700	134,700
Wind energy conversion system	59,300	53,100	63,460	63,460	62,960	30,500	30,500	93,960	93,960	83,960
Ocean systems	24,000	22,900	23,600	23,600	23,300	9,500	9,500	33,100	33,100	29,300
Program direction	2,894	2,988	3,144	3,144	3,144			3,144	3,144	3,144
Subtotal, solar technology	258,794	232,288	294,404	294,404	283,104	60,000	60,000	354,404	354,404	331,604
Subtotal, operating	381,281	369,487	390,021	390,021	394,121	67,000	97,000	457,021	457,021	470,921
Subtotal, capital equipment	6,400	3,700	15,400	15,400	11,300			15,400	15,400	7,800
Subtotal, plant	44,500	46,000	65,640	76,340	84,840			65,640	76,340	84,840
Total, solar	432,181	419,187	471,061	481,761	490,761	67,000	97,000	538,061	578,761	563,561

SOLAR TECHNOLOGY

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80–ES–1	Wind energy systems test center building, Rocky Flats, Colorado	2,140	0	0	2,140	2,140	2,140			2,140	2,140	2,140
79–1–m	OTEC–1 ocean test facility	33,000	24,200	22,300	0	10,700	10,700			0	10,700	10,700
79–1–q	Solar energy research institute facility	30,000	3,000	2,000	27,000	27,000	22,000			27,000	27,000	22,000
76–2–B	10MW central receiver solar thermal powerplant, Barstow, California	108,000	75,250	68,500	36,500	36,500	50,000			36,500	36,500	50,00
	Total, solar	0	102,450	92,800	65,640	76,340	84,840			65,640	76,340	84,840

BIOMASS (SECTION 104(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $57,838,000 for biomass research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

A description of the Committee's recommendations follows:

Biomass

Committee Action: The Committee does not recommend any change in the biomass program; however, the Committee directs DOE to expend at least $1,500,000 of their funds for biomass to field test wood gasifers in residential and commercial heating applications.

The Committee understands that of the $10 million appropriated in fiscal year 1979 to fund the direct combustion wood burning plant only $3 million will be used for detailed design of that plant. The Committee directs that the remaining $7 million be reprogramed to fund conceptual design and where appropriate, commercial design of biomass cogeneration, biomass gasification, and wood-to-alcohol facilities.

The Committee recommends that the biomass program include an aggressive element which identifies and evaluates the use of plants developed specifically for their energy content.

BIOMASS

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Biomass	41,900	23,771	56,500	56,500	54,500			56,500	56,500	54,500
Program direction	615	615	838	838	838			838	838	838
Subtotal, operating	42,515	24,386	57,338	57,338	55,338			57,338	57,338	55,338
Subtotal, capital equipment	500	300	500	500	500			500	500	500
Subtotal, plant	0	0	0	0	0			0	0	0
Total, biomass	43,015	24,686	57,838	57,838	55,838			57,838	57,838	55,838

NUCLEAR FISSION (SECTION 104(C))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $722,195,000 to support an appropriation of $741,595,000 for nuclear fission research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $945,595,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Converter (Section 104(c)(1))

Thermal Reactor Technology

An amendment to the Thermal Reactor Technology program was adopted to increase the light water reactor technology activities by $24 million to provide a total of $27.5 million in fiscal year 1980 for improving the safety related to the use of current nuclear reactor technologies. A second amendment was approved to reduce the funding for the uranium utilization activities in the Thermal Reactor Technology Program by $4 million. The aggregate of the two amendments was to increase the thermal reactor technology program by $20 million.

Within the $24 million increase is contained $14 million for research and development activities on equipment and operational systems for light water reactors. The $3.5 million level of funding for safety-related research in the fiscal year 1980 budget submittal is $0.5 million less than the fiscal year 1979 program. This level of funding is basically sufficient only to maintain a token effort in the Department of Energy on safety-related research for light water reactors. The Committee amendment would expand the level of effort to improve systems and components in the current types of light water reactors, both boiling water and pressurized water reactors. The funds would allow DOE to develop improved safety valves and improved heat removal systems and to test components in accident environments. The program could fund research and development on computer based control systems to help eliminate human error as a contributing factor to plant excursions. The development of advanced control systems and diagnostic systems to aid the operator in both normal and off-normal conditions would proceed with the increasing funding.

Ten million dollars of the increase would fund a new initiative in DOE to formalize DOE emergency support for management of any future nuclear power reactor incidents. The national labs provided significant, but basically ad hoc, support to NRC and Metropolitan Edison during the Three Mile Island incident. The amendment would support a formalized, prearranged DOE capability, in concert with similar initiatives under consideration by NRC, EEI/EPRI, and the vendors. This would insure the application of the full range of DOE's unique lab expertise and test equipment capability in any future incident. The new effort would include the systematic storage for quick retrieval of design information for each of the Nation's operating civilian nuclear reactors. Contingency planning would include the prior identification of specific expertise and test equipment in the

National Lab system for responses, including simulation of reactor conditions, for purposes of providing technical assistance to NRC and the utility in managing possible incidents. The AEC communications network would be organized in advance to provide high speed data communication capability to reactor sites, DOE headquarters and NRC headquarters. DOE will review the DOE reaction to the Three Mile Island incident and prepare specific recommendations for this prearranged response capability with a resulting report to the Committee.

The uranium utilization subprogram was accelerated from last year's funding level in the proposed DOE FY 1980 budget. The Committee's second amendment would reduce this area and shift the emphasis to safety for the coming fiscal year. This subprogram is the subject of active research by industry as well.

High Temperature Gas Reactor

The Committee recommends the addition of $20 million to the $12 million for the International HTGR Program contained in the Thermal Reactor Technology Program, and establishment of the HTGR program as a separate line item. The additional funds include $18 million for operating expenses and $2 million for capital equipment not related to construction. Since the budget for the HTGR program was reduced from $42 million in fiscal year 1979 to only $12 million in the request to Congress for fiscal year 1980, the proposed level of funding of $32 million for fiscal year 1980 approved by the Committee will provide continuity in the program. The increased funding will permit an adequate level of activity on the direct-cycle HTGR concept while maintaining a minimal on-going effort on the steam-cycle HTGR design.

Advanced Reactor Systems

The Committee recommends a decrease in the authorization for the Advanced Reactor Systems subprogram. The original request included $9.7 million for operating expenses, and $0.3 for capital equipment not related to construction. An amended budget justification was submitted to the Committee proposing that $5 million of the originally requested $10 million be used for advanced fuel cycle research and development activities. The Committee recommends elimination of the $5 million in advanced fuel cycle research and development activities in order to better accommodate the fuel cycle research and development increases authorized elsewhere in the budget. Thus, the Committee approved only $4.7 million for operating expenses and $0.3 million for capital equipment not related to construction for the Advanced Reactor Systems subprogram.

Advanced Converter Reactor Commercialization Study (Section 107)

The Committee adopted an amendment which directed the President to submit to the Congress, no later than March 31, 1981, an advanced converter reactor commercialization strategy. To support the strategy a study is commissioned to evaluate the potential role of advanced converters (including advanced LWR's, HTGR's and heavy water reactors) in the evolution of nuclear power reactors to more uranium efficient advanced types and to determine the R&D, budgetary and licensing aspects of advanced converter reactor commercialization. The study is to assess the costs and benefits, including implications for nonproliferation and the cost of electricity to consumers, of the use of advanced converter reactors as a source of nuclear electricity in the United States for periods of 50 and 100 years into the future. The Committee believes that the study should cost no more than a million dollars in light of the extensive previous work on these reactors including that of the International Nuclear Fuel Cycle Evaluation program and the Nonproliferation Alternatives Systems Assessment program.

Spent Fuel Storage (Section 104(c)(2))

International Spent Fuel Storage

Committee Action: The Committee adopted a statutory prohibition on the use of any funds by any Federal official for the purpose of conducting any site specific activities in the United States' territories, possessions or States for storage of foreign spent nuclear fuel on such lands, without prior notification by the Secretaries of Energy, of the Interior and of State to the appropriate Committees of Congress. This prohibition shall be in addition to other statutory requirements and restrictions in the Atomic Energy Act, the Nuclear Nonproliferation Act of 1978, Public Law 95-238, and any other law. This Committee action is a direct response to the failure of the Secretaries of Energy and State to notify the Committee and the Secretary of the Interior of negotiations with foreign nations regarding a Pacific Basin Spent Fuel Storage Facility and related investigations and site surveys at certain U.S. possessions. Also, despite formal notification of the Administration by the Committee of its serious concern regarding the Pacific Basin proposal, the Administration has reaffirmed its intent to proceed with the project. The Committee amendment will insure prior notification to Congress before there is any further commitment to the project.

Breeder (Section 104(c)(4))

Liquid Metal Fast Breeder Reactor

The Committee approved an increase in operating funds for the Liquid Metal Fast Breeder Reactor base program by $10 million to expand the number of experiments that can be performed in existing facilities, to determine more fully the safety-related aspects of breeder reactors and breeder fuels. These facilities are being severely underutilized due to the lack of adequate funding. They have a certain fixed cost for operation and maintenance, and could be better utilized by increasing the number of experiments performed at them, giving a larger incremental return for the dollars being invested. For instance, the Experimental Test Reactor at the Idaho National Engineering Laboratory is only being used about 50 percent of the time or less due to the shortage of funds to pay for the additional experimental tests and analysis of the results of the experiments.

Clinch River Breeder Reactor Project.—The Committee by a vote of 10 to 8 adopted an amendment embodied by Section 105 of the amendment in the nature of a substitute for the original bill, S. 688, as introduced. The bill, S. 688 as introduced, contained no provisions pertaining to the Clinch River Breeder Reactor Project with regard to statutory authorization or funding for fiscal year 1980.

Section 105(a) repeals the statutory authority for the Clinch River Breeder Reactor (CRBR) Project as established by Section 106 of Public Law 91–273, as amended. Section 105(b) directs the Secretary of Energy to complete only the systems design for the CRBR Project and to procure and test components at his discretion which would be useful to the research and development on advanced fission technology. Subsection 105(c) directs the Secretary of Energy to take such actions with respect to existing contracts in connection with the CRBR Project as he deems necessary or appropriate to carry-out the provisions of Section 105. However, the subsection makes it clear that nothing in Section 105 is intended to, in any way, effect, modify, or prejudice any existing rights of any party under any such contractual instrument. In subsection 105(d), the Secretary is instructed to assure that any generic environmental or technical issues related to the activities described in subsection 105(b) are fully documented and discussed with the staff of the Nuclear Regulatory Commission. The Secretary is also authorized to make any necessary modifications in existing LMFBR facilities to test, and shall provide for the testing and evaluation of components completed under subsection 105(b).

In lieu of continuation of the CRBR Project, Section 105(e) directs the Secretary to initiate a conceptual design study of a new LMFBR breeder test plant. This subsection describes the scope of the conceptual design study. In subsection 105(f) the Secretary is directed to submit a report to the President and Congress no later than March 31, 1981, containing the conceptual design together with his recommendations and additional documentation necessary to support his recommendations. In reaching his recommendations, the Secretary is to consider other breeder reactor concepts in addition to the liquid metal fast breeder reactor which is the focus of subsection 105(e). Subsection 105(g) requires the Secretary to utilize existing contract design personnel to the maximum extent practicable in carrying-out subsections (b)(1) and (e) of this section. In subsection 105(h), an additional $52 million in budget authority is authorized to carry-out this section in addition to funds contained in subsection (3) of Section 103 of the substitute text. Finally, subsection 105(i) states that this section becomes effective on the date of enactment.

Safety Research Experimental Facility

The Committee recommends an increase in the authorization and budget authority for Project 78–6–c, the Safety Research Experimental Facility (SAREF). The amendment increases the budget authority for fiscal year 1980 to $38.3 million to provide for the completion of the initial phase of SAREF and to provide $21 million in budget authority for the second phase of SAREF, the supporting facilities phase. This amendment increases the budget authority for this year by $21.6 million and increases the authorization above the President's request by $100.6 million. This authorization increase will bring the total authorization to date for the SAREF to $129.7 million.

The Safety Research Experimental Facility is a vital part of the breeder technology program to provide the facilities necessary to gain the safety data necessary to license breeder reactors in this country.

The data should also prove valuable to other countries that are seeking to build breeder reactors, to insure that their designs are safe. The supporting facilities are necessary for examining fuels removed from the TREAT Up-Grade Reactor and eventually the Safety Test Facility in order to learn the results of the experiments and analyze potential consequences.

Phase 2 of the SAREF was part of the $504 million base program submitted by the Department of Energy to OMB. The OMB struck Phase 2 of the project from the budget and redefined the base program to include fuel cycle research and development and Nuclear Regulatory Commission work in order to reachieve the $504 million base program submitted by the DOE.

Fuels and Materials Examination Facility (Section 108(b)(2)(I))

The Committee recommends to the Appropriation Committee to increase the fiscal year 1980 appropriation of budget authority for Project 78-6-f by $17 million above the budget request to maintain the schedule and cost for the facility. No increase in authorization for the project is necessary to permit the increased appropriation.

Fuel Cycle Research and Development (Section 104(c)(5))

The Committee recommends an increase in the operating expenses for the Fuel Cycle Research and Development activities of $25.8 million, bringing the total authorization to $46.9 million in fiscal year 1980. The Committee also approved the establishment of the fuel cycle research and development activities as a separate line item in the budget, removing it from a sub-category of the breeder reactor programs.

The amendment adds funding for three separate activities which were on-going in fiscal year 1979 and were not included in the Administration's budget request for fiscal year 1980. The amendment includes $11.8 million for continuation of research and development activities at the Barnwell Nuclear Fuel Plant at Barnwell, South Carolina; $6 million for continuation of HTGR fuel cycle activities; and $8 million for the continuation of work at the Hanford Engineering Development Laboratories for remote processing and fabrication activities associated with reprocessing and recycling to reactor fuels.

NUCLEAR FISSION

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Converter:										
Thermal reactor technology	23,900	22,800	24,500	24,500	22,750	20,000	20,000	56,500	56,500	41,500
High Temp Gas Reactor	0	0	12,000	12,000	12,000	18,000	18,000	30,000	30,000	29,000
Advanced reactor systems	0	0	9,700	9,700	9,350	−5,000	−5,000	4,700	4,700	4,350
Gas cooled thermal reactors	39,500	31,660	0	0	12,000			0	0	12,000
Advanced isotope separation technology	46,200	46,000	46,200	46,200	48,500			46,200	46,200	48,500
Program direction	1,844	1,941	2,206	2,206	2,206			2,206	2,206	2,206
Total, converter	111,444	102,401	94,606	94,606	106,806	33,000	33,000	127,606	127,606	137,556
Spent fuel storage:										
International spent fuel storage	1,200	1,200	700	700	700			700	700	700
Domestic spent fuel storage	900	900	4,000	[illegible]	3,800			4,000	4,000	3,800
Program direction	430	440	482	[illegible]	482			482	482	482
Total, spent fuel storage	2,530	2,540	5,182	5,182	4,982			5,182	5,182	4,982

Advanced nuclear systems:										
Space and terrestrial applications	38,380	38,330	34,300	34,300	38,100			34,300	34,300	38,100
Advanced systems evaluations	10,300	12,300	2,600	2,600	4,600			2,600	2,600	4,600
Program direction	1,152	1,224	1,298	1,298	1,298			1,298	1,298	1,298
Total, advanced nuclear systems	49,832	51,854	38,198	38,198	43,998			38,198	38,198	43,998
Breeder:										
Liquid metal fast breeder reactor	460,001	497,760	348,900	348,900	346,100	[1] 62,000	[1] 62,000	410,900	410,900	456,500
Water cooled breeder reactor	50,900	43,740	57,900	57,900	59,100			57,900	57,900	59,100
Gas cooled breeder reactor	24,500	22,300	24,500	24,500	24,500			24,500	24,500	24,500
Program direction	10,454	11,038	11,888	11,888	11,888			11,888	11,888	11,888
Total, breeder	545,855	574,838	443,188	443,188	441,588	62,000	62,000	505,188	505,188	551,988
Fuel cycle R & D	66,850	68,100	21,100	21,100	27,985	25,800	25,800	46,900	46,900	56,785
Subtotal, operating	776,511	799,733	602,274	602,274	625,359	120,800	120,800	723,074	723,074	795,309
Subtotal, capital equipment	47,509	34,924	41,021	41,021	43,071	2,000	2,000	43,021	43,021	44,071
Subtotal, plant	53,300	37,350	78,900	98,300	84,110	100,600	38,600	179,500	136,900	94,110
Total, nuclear fission	877,320	872,007	722,195	741,595	752,540	223,400	161,400	945,595	902,995	933,490

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[1] Includes $52,000,000 pursuant to section 105.

NUCLEAR FISSION

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

		TEC	Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
			Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
	CONVERTER											
80-GPP-1	General plant projects	800	0	0	800	800	400			800	800	400
	Total, converter	0	0	0	800	800	400			800	800	400
	BREEDER											
80-ES-3	Test reactor area physical security and safeguards, INEL, Idaho Falls, Idaho	1,200	0	0	1,200	1,200	200			1,200	1,200	200
80-ES-11	Idaho lab facility, phase I, INEL, Idaho Falls, Idaho	22,000	0	0	22,000	4,000	1,000			22,000	4,000	1,000
80-ES-4	Laundry decontamination facility, INEL, Idaho Falls, Idaho	2,200	0	0	2,200	2,200	400			2,200	2,200	400
80-GPP-1	General plant projects	12,300	0	0	12,300	12,300	4,200			12,300	12,300	4,200
80-ES-5	Modifications to reactors, various locations	2,800	0	0	2,800	2,800	560			2,800	2,800	560
80-ES-6	Boilers heat and ventilating and fuel tank and room replacement	1,900	0	0	1,900	400	100			1,900	400	100
79-1-c	Security improvements, Richland, Wash	12,000	4,500	900	0	4,500	6,600			0	4,500	6,600

7 9 -1-h	Maintenance and storage facility, Richland, Wash.	16,700	3,000	1,000	0	13,700	5,000			0	13,700	5,000
78-6-c	Safety research experimental facility, INEL, Idaho		29,100	23,950	0	3,000	12,600	100,600	21,600	100,600	24,600	22,600
78-6-e	Liquid metal engineering center modifications, liquid metal engineering center, Santa Susana, Calif.	15,100	8,000	4,150	5,500	5,500	5,550			5,500	5,500	5,550
78-6-f	Fuels and materials examination facility, Richland, Wash., ($134,800,000 authorization, $5,200,000 applicable fiscal year 1978; $20,000,000 applicable fiscal year 1979)	170,000	164,800	20,200	30,200	36,000	30,000		17,000	30,200	53,000	30,000
78-5-b	Advanced fuel recycle integrated equipment test facility, Oak Ridge, Tenn.	15,400	9,000	6,500	0	6,400	3,500			0	6,400	3,500
77-4-d	Fuel storage facility, Richland, Wash.	30,000	36,800	24,700	0	5,500	14,000			0	5,500	14,000
	Total, breeder	0	225,200	81,400	78,100	97,500	83,710	100,600	38,600	178,700	136,100	93,710
	Total nuclear	0	255,200	81,400	78,900	98,300	84,110	100,600	38,600	179,500	136,900	94,110

MAGNETIC FUSION (SECTION 104(d))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $358,608,000 to support an appropriation of $364,058,000 for magnetic fusion research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $363,208,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Confinement Systems (Section 104(d)(1))

The Committee recommends establishment of a new project, 80–MF–5, MIT Plasma Fusion Center, Cambridge, Massachusetts. The Committee provided full authorization of $4.6 million for modifications to an existing facility that will serve to house the plasma fusion activities at the Massachusetts Institute of Technology. The Committee also recommends a fiscal year 1980 budget authority of $3 million.

These funds will allow the necessary modifications to an existing building donated to MIT for consolidation of various fusion-related activities currently scattered throughout the campus. The Committee considered this project necessary to avoid duplication of high-cost support facilities and for facilitating coordination, interaction, and effective use of support personnel.

Development and technology

Fusion Materials Irradiation Test Facility

The Committee recommends that the Appropriations Committee increase the fiscal year 1980 appropriation of budget authority for Project 78–3–6 by $10 million above the DOE request to maintain the schedule and cost for the facility. No increased authorization above the fiscal year 1980 budget request for the project is necessary to allow the higher appropriation figure.

Fusion Engineering Center (Section 106)

The Committee included a provision in the reported bill for a study of the desirability of establishing a national center for magnetic confinement fusion to be built in the future. While the Committee does not want to prejudge the advisability of establishing such a center, the Committee believes that a study of the possibilities is warranted for such reasons as cost-effectiveness, safety and environmental concerns, international cooperation and scientific competition. The Secretary of Energy is expected to complete the study by July 1, 1980 using funds from the available appropriations to the Department of Energy for policy studies in fiscal year 1980 rather than from the fusion energy program accounts.

MAGNETIC FUSION

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Confinement systems	88,840	88,840	92,600	92,600	92,200			92,600	92,600	92,200
Development and technology	51,400	51,400	50,000	50,000	50,000			50,000	50,000	50,000
Applied plasma physics	60,660	59,260	71,200	71,200	70,500			71,200	71,200	70,500
Reactor projects	32,100	27,500	39,100	39,100	38,800			39,100	39,100	38,800
Program direction	2,835	2,928	3,158	3,158	3,158			3,158	3,158	3,158
Subtotal, operating	235,835	229,928	256,058	256,058	254,658			256,058	256,058	254,658
Subtotal, capital equipment	27,200	22,800	29,800	29,800	28,300			29,800	29,800	28,300
Subtotal, plant	88,900	82,517	72,750	78,200	81,200	4,600	13,000	77,350	91,200	84,500
Total, magnetic fusion	351,935	335,245	358,608	364,058	364,158	4,600	13,000	363,208	377,058	367,458

MAGNETIC FUSION

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-GPP-1	General plant project	4,900	0	0	4,900	4,900	1,300			4,900	4,900	1,300
80-MF-5	Modification to MIT plasma fusion center	4,600	0	0	0	0	0	4,600	3,000	4,600	3,000	300
78-3-a	Mirror fusion test facility, Lawrence Livermore Laboratory, California	94,200	134,200	32,000	0	33,200	20,500			0	33,200	20,500
78-3-b	Fusion materials irradiation test facility, Hanford Engineering Development, Laboratory, Washington	82,250	21,300	10,017	67,850	10,000	3,000		10,000	67,850	20,000	6,000
76-5-a	Tokamak Fusion Test Reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	238,600	280,600	228,500	0	30,100	56,400			0	30,100	56,400
	Total, magnetic fusion	0	436,100	270,517	72,750	78,200	81,200	4,600	13,000	77,350	91,200	84,500

GEOTHERMAL (SECTION 104(e))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $140,927,000 for geothermal research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $161,527,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Hydrothermal Resources (Section 104(e)(1))

The Committee recommends a total increase for the Hydrothermal Resource Program of $16.5 million. Committee recommendations include $2.5 million for the Hydrothermal Resources Program for support facilities and additional resource definition for the Raft River project. The Raft River project is a geothermal powered pilot plant with a 5MWe turbine generator. Title II design was completed and construction at Raft River began in the fourth quarter of fiscal year 1978. It is scheduled for completion in the third quarter of fiscal year 1980.

The Raft River Geothermal project is the only large DOE sponsored geothermal project using the binary technology. The addition proposed here will help DOE in further developing this valuable new technology and in understanding the resources at Raft River. Some funds will be used to extend the resource by further definition and characterization at the site. This is needed to help understand the resources in the area during operation and to better plan the experiment at Raft River. In addition, this resource definition will provide the opportunity for further industry-coupled efforts at the site in the future, if the experiment is successful.

Additional funds would also provide support facilities for the operating personnel at Raft River. At present the conditions are not adequate for long-term operation in this experiment. Water must be transported into the site and office facilities are only temporary. Therefore, $0.5 million of the funds added will be used for support facilities.

The Committee also recommends an extra $14 million for further resource definition in the Hydrothermal Resources Program. Two years ago DOE devised two programs to help industry to develop and understand geothermal resources. In the industry-coupled program, exploratory drilling costs are shared with industry to accelerate their interests in utilization of geothermal resources, and to improve the DOE researchers' understanding of the reservoirs. The pre-commercial program is a cooperative program with the USGS to examine suspected geothermal resources.

DOE proposes to terminate the industry and pre-commercial program, citing the presence of tax incentives to help industry define these resources. However, these tax incentives are the same incentives that were tailored for the oil industry, where the assumption of this much higher risk is commonplace. The effect of this tax incentive on more conservative manufacturers and utilities has yet to be determined.

Therefore, the Committee recommends an addition of $12 million to continue the important work in this resource definition program. Of the additional funds, $2.4 million will be used for continuation of the Mount Hood, Oregon, project. DOE intends to discontinue funding for this project after only drilling three shallow wells. However, the Committee feels that the potential for resources is there and deeper exploratory drilling should be done at the Mount Hood site.

In addition, the next priority work to be done under the pre-commercial and industry-coupled program would be in the Snake River Plain. With additional funding, this work as well as other projects can go forward.

Finally, the Committee is recommending an increase in the state-coupled program by $2 million, to help characterize the moderate temperature resources, which have not been the subject of great interest by industry. These funds will help to bring the state-coupled program back to last year's level of funding, compensating for inflation. Under this program the Committee is particularly interested that funds be provided for a step-out-well at the Kapoho Reservoir. The Kapoho well is the hottest hydrothermal resource discovered in the world and is presently the site of a well head generator installation. These funds would provide for information on the reservoir capacity and would also serve as a back-up well for power generation.

Geothermal Technology Development (Section 104(e)(3))

The Committee recommends an increase of $4.1 million for Geothermal Technology Development in the Hot Dry Rock subprogram. The increase will provide funding for further development of drilling machinery for hot dry rock and also for increased activity in the hot dry rock resource assessment program centered in the Southwest. Of the increase, $1.1 million will support full continuation of the hot dry rock demonstration project at Los Alamos Scientific Laboratory to provide sufficient depth of drilling. The project is intended to substitute heat energy from hot dry rock for natural gas at the Laboratory.

GEOTHERMAL

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Hydrothermal resources	69,500	58,600	58,300	58,300	56,100	16,500	16,500	74,800	74,800	71,100
Geopressured resources	27,600	24,700	35,700	35,700	33,950			35,700	35,700	33,950
Geothermal technology development	56,100	49,250	41,800	41,800	40,350	3,600	3,600	45,400	45,400	43,350
Program direction	1,776	1,832	1,927	1,927	1,927			1,927	1,927	1,927
Subtotal, operating	154,976	134,382	137,727	137,727	132,327	20,100	20,100	157,827	157,827	150,327
Subtotal, capital equipment	3,000	2,600	3,200	3,200	1,600	500	500	3,700	3,700	1,900
Subtotal, plant	0	0	0	0	0			0	0	0
Total, geothermal	157,976	136,982	140,927	140,927	133,927	20,600	20,600	161,527	161,527	152,227

LOW-HEAD HYDROELECTRIC (SECTION 104(f))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $8,468,000 for low-head hydroelectric research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee did not recommend any changes in this proposed budget. (See Title III for commercialization programs.)

However, the Committee expressed two concerns with the organizational structure and the management of the small hydroelectric program. It was noted that a multiplicity of approvals are needed on every project and the Committee agreed that streamlining the approvals procedure would improve the effectiveness of the program.

Also, the Committee was concerned that the Department's failure to establish a field office to manage small hydroelectric projects in New England has reduced the Department's responsiveness to New England proposals. It was noted that the number of projects funded by the Federal Government is increasing each year and that, under such conditions, it is appropriate to establish a separate field office in each region of the country where large numbers of projects exist. The Committee recommended that the Department implement this recommendation.

ENVIRONMENTAL (SECTION 104(g))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $254,658,000 for environmental research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee did not recommend any changes in this proposed budget.

BASIC RESEARCH (SECTION 104(h))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $268,124,000 for basic research and development programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee did not recommend any changes in the proposed budget.

LOW-HEAD HYDROELECTRIC

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Low-head hydroelectric development	18,000	13,000	8,000	8,000	7,100			8,000	8,000	7,100
Program direction	411	431	468	468	468			468	468	468
Subtotal, operating	18,411	13,431	8,468	8,468	7,568			8,468	8,468	7,568
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, low-head hydroelectric	18,411	13,431	8,468	8,468	7,568			8,468	8,468	7,568

ENVIRONMENTAL

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Overview and assessment	49,150	47,700	58,400	58,400	53,400			58,400	58,400	53,400
Biomedical and environmental research	138,673	135,437	154,390	154,390	151,190			154,390	154,390	151,190
Decontamination and decommissionning management of surplus radioactively contaminated DOE facilities	14,990	14,640	9,000	9,000	8,640			9,000	9,000	8,640
Program direction	1,473	1,539	12,368	12,368	12,368			12,368	12,368	12,368
Subtotal, operating	204,286	199,316	234,158	234,158	225,598			234,158	234,158	225,598
Subtotal, capital equipment	14,250	11,600	14,500	14,500	11,900			14,500	14,500	11,900
Subtotal, plant	0	0	6,000	6,000	1,325			6,000	6,000	1,325
Total, environemntal programs	218,536	210,916	254,658	254,658	238,823			254,658	254,658	238,823

ENVIRONMENTAL

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-ES-8	Modifications and additions to biomedical and environmental research facilities, various locations	3,500	0	0	3,500	3,500	700			3,500	3,500	700
80-GPP-1	General plant projects	2,500	0	0	2,500	2,500	625			2,500	2,500	625
	Total, environment	0	0	0	6,000	6,000	1,325			6,000	6,000	1,325

BASIC RESEARCH

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Basic energy sciences:										
Nuclear sciences	28,400	27,700	30,700	30,700	29,900			30,700	30,700	29,900
Materials sciences	71,520	69,510	81,300	81,300	79,000			81,300	81,300	79,000
Chemical sciences	48,000	47,000	58,800	58,800	57 600			58,800	58,800	57,600
Engineering, mathematical, and geosciences	15,700	15,475	23,900	23,900	23,500			23,900	23,900	23,500
Advanced energy projects	7,300	7,100	16,600	16,600	15,800			16,600	16,600	15,800
Biological energy conversion and conservation	4,000	3,940	6,900	6,900	6,700			6,900	6,900	6,700
Program direction	1,851	2,313	2,570	2,570	2,570			2,570	2,570	2,570
Total, basic energy sciences	176,771	173,038	220,770	220,770	215,070			220,770	220,770	215,070
Technical assessment projects:										
Assessment projects	2,200	2,200	3,000	3,000	3,000			3,000	3,000	3,000
Solar powered satellite	4,600	3,500	7,500	7,500	6,900			7,500	7,500	6,900
Program direction	308	390	466	466	466			466	466	466
Total, technical assessment project	7,108	6,090	10,966	10,966	10,366			10,966	10,966	10,366

University research support:									
University institutional agreements	800	800	2,300	2,300	2,300		2,300	2,300	2,300
University reactor fuel assistance	2,000	1,800	1,700	1,700	1,700		1,700	1,700	1,700
University coal research laboratories	0	0	0	5,000	2,000		0	5,000	2,000
Program direction	122	152	171	171	171		171	171	171
Total, university research support	2,922	2,752	4,171	9,171	6,171		4,171	9,171	6,171
Technial program and policy analysis	1,662	2,057	2,417	2,417	2,417		2,417	2,417	2,417
Subtotal, operating	188,463	183,937	238,324	243,324	234,024		238,324	243,324	234,024
Subtotal, capital equipment	11,600	10,900	14,550	14,550	13,600		14,550	14,550	13,600
Subtotal, plant	10,000	5,100	15,250	17,950	12,160		15,250	17,950	12,160
Total, basic research	210,063	199,937	268,124	275,824	259,784		268,124	275,824	259,784

BASIC RESEARCH

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
	BASIC ENERGY SCIENCES											
80-ES-9	Intense pulsed neut source-1 upgrade, argonne National Laboratory, Argonne, Ill.	2,400	0	0	2,400	2,400	500			2,400	2,400	500
80-GPP-1	General plant projects	250	0	0	250	250	60			250	250	60
80-ES-10	Chemical sciences addition, Lawrence Berkeley, Calif.	12,600	0	0	12,600	6,300	2,100			12,600	6,300	2,100
78-13-a	National synchrotron light source, Brookhaven National Laboratory, Upton, N.Y.	24,000	34,000	10,100	0	9,000	9,500			0	9,000	9,500
	Total, basic energy sciences	0	34,000	10,100	15,250	17,950	12,160			15,250	17,950	12,160

ELECTRIC ENERGY SYSTEMS AND STORAGE (SECTION 104(i))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $93,891,000 for electric energy systems and storage research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $106,891,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Electric Energy Systems (Section 104(i)(1))

Committee Action: The Committee recommends an increase of $13,000,000 in budget authority for the Electric Energy Systems Program. Subprograms identified for receipt of additional funds are:

(1) System Development and Control—$3,000,000;

(2) Underground Transmission and Compact Stations—$6,700,000;

(3) High Voltage Direct Current—$3,300,000 of which $300,000 is for capital equipment.

As submitted, the fiscal year 1980 budget request for Electric Energy Systems included no funds for the System Development and Control and the High Voltage Direct Current Subprograms. The Underground Transmission and Compact Stations Substations experienced a 60 percent reduction. Recognizing the serious shortage in available overhead transmission corridors, the environmental concerns about high voltage overhead cables, and the need to assess the viability and operational reliability of electric grid systems during both normal operation and emergency situations, the Committee feels the budget submitted for these programs is inadequate. The Committee recommendations restore funding for the System Development and Control and the High Voltage Direct Current Subprograms to fiscal year 1979 levels and the High Voltage Direct Current Subprogram to approximately 80 percent of the fiscal year 1979 level.

Energy Storage Systems (Section 104(i)(2))

Committee Action: The Committee recommends redirection of $6,900,000 in requested budget authority for the Thermal and Mechanical Storage Program as follows:

(1) Thermal Storage—$6,900,000 decrease;

(2) Chemical/Hydrogen Storage—$4,000,000 increase;

(3) Mechanical Storage—$1,500,000 increase;

(4) Magnetic Storage—$1,400,000 increase.

With the exception of Thermal Storage which realized a 246-percent increase in requested budget authority, all other subprograms requests were significantly reduced in the fiscal year 1980 budget request. In an effort to maintain support for the subprograms more consistent with fiscal year 1979 levels, the Committee recommends redirecting $6,900,000 of the $9,000,000 requested to fully fund 15 proposed site speciffic thermal storage projects to the aforementioned subprograms.

The additional authorization for the Chemical/Hydrogen Storage Subprogram is to support continued investigation of the problems associated with the storage, transmission and distribution of hydrogen. Increased funds for the Mechanical Storage Subprogram are to permit continuation of underground cavern stability analyses associated with compressed air storage applications. The Magnetic Storage Subprogram authorization increase is intended to maintain both the utility system stabilization and peaking application projects at their current levels of funding.

ELECTRIC ENERGY SYSTEMS AND STORAGE

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Electric energy systems:										
Power supply and system management	15,400	13,650	16,900	16,900	14,900	3,000	3,000	19,900	19,900	16,900
Power delivery	22,600	22,900	8,600	8,600	10,700	9,700	9,700	18,300	18,300	17,700
Program direction	1,351	1,394	1,466	1,466	1,466			1,466	1,466	1,466
Total, electric energy systems	39,351	37,944	26,966	26,966	27,066	12,700	12,700	39,666	39,666	36,066
Energy storage systems:										
Battery storage	24,400	22,500	32,000	32,000	31,000			32,000	32,000	31,000
Chemical, mechanical, and other storage	31,500	25,500	30,840	30,840	29,950			30,840	30,840	29,950
Program direction	1,310	1,354	1,425	1,425	1,425			1,425	1,425	1,425
Total, energy storage systems	57,210	49,354	64,265	64,265	62,375			64,265	64,265	62,375
Subtotal, operating	96,561	87,298	91,231	91,231	89,441	12,700	12,700	103,931	103,931	98,441
Subtotal, capital equipment	4,100	2,000	2,660	2,660	1,300	300	300	2,960	2,960	1,500
Subtotal, plant	0	0	0	0	0			0	0	0
Total, electric energy systems and storage	100,661	89,298	93,891	93,891	90,741	13,000	13,000	106,891	106,891	99,941

CONSERVATION RESEARCH AND DEVELOPMENT (SECTION (110))

BUILDINGS AND COMMUNITY SYSTEMS (SECTION 110(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $66,700,000 for building and community services conservation research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $99,200,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Urban Wastes (Section 110(a)(3))

Committee Action: The Committee approved a $16,000,000 increase in budget authority for the Urban Waste Program. A major part of this increase, $15,000,000, is to be used by the Department to fund design, construction and related costs of high-risk waste-to-energy projects under the authorities granted in section 20 of the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended.

The remaining $1,000,000 is for continued support of the design phase for 20 municipal waste-to-energy projects. Insufficient funds were requested to support each project through completion of this phase.

The Committee intends that these additional funds will be subject to the EPA–DOE memoranda of agreement/understanding regarding the respective roles of the two agencies in the conduct of urban waste-to-energy demonstration projects. Application of the memoranda will insure that there will be no duplication of effort in the programs of the two agencies.

The Committee recognizes the valuable contribution being made by the U.S. Army Natick Laboratory in developing conversion processes of urban cellulosic waste into ethyl alcohol, and encourages the DOE to provide whatever financial support is necessary to the laboratory in order for it to continue this effort.

Technology and Consumer Projects (Section 110(a)(4))

Committee Action: The Committee recommends increasing the Technology and Consumer Products program to provide $3 million for a wood stove research and development program. Among other efforts, these funds are to be used for the development of wood stove safety, efficiency and environmental standards and codes.

The Committee recommends increasing the technology and consumer products program by $13.5 million to be used to procure approximately fifty 40 kwe fuel cells. The Committee recommends that DOE operate this demonstration program so as to promote competition in the fuel-cell manufacturing industry and encourage new entrants into the field.

The Committee recommends that the Home Heating-oil Demonstration program be expanded to six states and that DOE earmark sufficient funds for this purpose.

In summary, the Committee recommends an increase of $16,500,000 in budget authority for this program.

CONSERVATION—BUILDINGS AND COMMUNITY ASSISTANCE

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Building systems	17, 600	17, 100	17, 350	17, 350	15, 225			17, 350	17, 350	15, 225
Community systems	19, 400	18, 700	16, 550	16, 550	14, 675			16, 550	16, 550	14, 675
Urban waste	8, 500	7, 600	10, 000	10, 000	7, 500	16, 000	16, 000	26, 000	26, 000	19, 500
Technology and consumer products	20, 350	19, 300	20, 600	20, 600	18, 500	16, 500	16, 500	37. 100	37, 100	30, 000
Program direction	834	1, 030	1, 200	1, 200	1, 200			1, 200	1, 200	1, 200
Subtotal, operating	66, 684	63, 730	65, 700	65, 700	57, 100	32, 500	32, 500	98, 200	98, 200	80, 600
Subtotal, capital equipment	1, 200	600	1, 000	1, 000	500			1, 000	1, 000	500
Subtotal, plant	0	0	0	0	0			0	0	0
Total, buildings and community systems	67, 884	64, 330	66, 700	66, 700	57, 600	32, 500	32, 500	99, 200	99, 200	81, 100

Industrial (Sections 110(b) and 111)

General

The President's proposed budget for fiscal year 1980 requests a authorization and appropriation of $31,758,000 for industrial con servation research and development. (See the appropriate table fo the breakdown between operating expenses, capital equipmen not related to construction and construction (plant and capit equipment).)

Committee Action: The Committee recommends an authorization $60,358,000 for fiscal year 1980 including $44,758,000 for operatin expenses (see table).

The Committee recommends a $13,500,000 increase in budg authority for the Industrial Energy Conservation Program. Of th increase, $4,000,000 is intended for use by the Process Efficiency Sub program; $9,500,000 for the Cogeneration Subprogram. Both the subprograms were funded in the administration's budget reque significantly below the DOE's recommended minimum funding lev The increased authorizations would restore funding to this minimu level.

Coal to Acetylene (Section 111)

Committee Action: In addition to these increases the Committ authorized total estimated cost of $15,100,000 for completion of proje 80–C–1 to demonstrate that the processing of coal to acetylene can achieved on an economic basis. Of this total, $2,300,000 in budg authority is recommended for appropriations for fiscal year 198 Phase I of the project is already in progress and will be completed the fall of 1979. The new authorization is to establish an Engineeri Test Facility at Calvert City, Kentucky. Attention will be focused fiscal year 1980 on designing a system to integrate the electric di charge arc process with downstream chemical separation process and long-lead time procurement of hardware.

INDUSTRIAL CONSERVATION

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Waste energy reduction	14,740	14,740	15,400	15,400	13,000			15,400	15,400	13,000
Process efficiency	14,400	14,400	10,000	10,000	12,500	4,000	4,000	14,000	14,000	16,000
Conservation	5,000	3,450	4,500	4,500	3,800	9,500	9,500	14,000	14,000	10,600
Program direction	1,456	1,798	1,358	1,358	1,358			1,358	1,358	1,358
Subtotal, operating	35,596	34,388	31,258	31,258	30,658	13,500	13,500	44,758	44,758	40,958
Subtotal, capital equipment	500	250	500	500	500			500	500	500
Subtotal, plant	0	0	0	0	0	15,100	2,300	15,100	2,300	1,200
Total, industrial	36,096	34,638	31,758	31,758	31,158	28,600	15,800	60,358	47,558	42,658

INDUSTRIAL CONSERVATION

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
	WASTE ENERGY REDUCTION											
80-C-1	Coal to acetylene demonstrations	15, 100	0	0	0	0	0	15, 100	2, 300	15, 100	2, 300	1, 200
	Total, industrial	15, 100	0	0	0	0	0	15, 100	2, 300	15, 100	2, 300	1, 200

Transportation (Section 110(c))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $95,861,000 for transportation conservation research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $115,361,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Vehicle Propulsion R. & D. (Section 110(c)(1))

Committee Action: The Committee recommends a $19,500,000 increase in budget authority for the Vehicle Propulsion R. & D. Program. These funds are intended to be used for the Advanced Automotive Heat Engine Systems Development Project as follows: $2,500,000 to reinstate a second Sterling Engine development team; $2,000,000 for developmental work on alternative cycle automotive engines, including a reevaluation of the rankine cycle engine; and $15,000,000 for a second gas turbine engine development team.

The philosophy adopted by DOE in conducting the heat engine project has been to support parallel efforts to assure development of advanced automobile propulsion systems within the shortest practicable time, as mandated by Public Law 95–238. Since one of the two industry Sterling engine development teams withdrew from the program, no funds were included in the fiscal year 1980 budget request to maintain a parallel development effort in this segment of the program. The recommended increase will provide sufficient funds to support initiation of a second team.

Similarly, to insure that technological advances in alternative cycles that were heretofore eliminated from the program are continually reviewed, additional funds have been provided specifically for that purpose. One technically interesting system is the multiple expansion, rankine cycle engine with a reheat feature.

The Committee also adopted an amendment to the authorization for the Transportation Energy Conservation program to add $15 million to fund a second gas turbine engine development team under the advanced automotive propulsion R. & D. effort. The Administration budget only contains full support in fiscal year 1980 for a single team. The gas turbine engine is a primary long range alternative for the conventional OTTO I.C.E. propulsion system, because of fuel efficiency, emissions control and diversity of usable fuels and fuel feedstocks. The gas turbine engine has received significant support from the automotive community and results in the initial phase of the DOE program have been encouraging. DOE's gas turbine work in fiscal year 1980 will initiate effort on long range design and development of the engine. Because of the encouraging potential of the gas turbine alternative and because of the obvious technical and institutional advantages of competition between two teams in pursuing such design and developmental efforts, the Committee decided to authorize funds for a second team.

CONSERVATION TRANSPORTATION

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Vehicle propulsion R. & D.	46,300	35,050	42,000	42,000	42,200	19,500	19,500	61,500	61,500	56,800
Nonhighway transport systems	1,600	1,600	1,000	1,000	1,000			1,000	1,000	1,000
New concepts	3,300	3,300	3,145	3,145	3,145			3,145	3,145	3,145
Electric and hybrid vehicle R.D. & D.	37,500	37,000	41,000	41,000	41,000			41,000	41,000	41,000
Alternative fuels utilization	5,800	4,700	5,200	5,200	5,200			5,200	5,200	5,200
Program direction	1,628	2,090	2,416	2,416	2,416			2,416	2,416	2,416
Subtotal, operating	96,128	83,740	94,761	94,761	94,961	19,500	19,500	114,261	114,261	109,561
Subtotal, capital equipment	1,500	750	1,100	1,100	900			1,100	1,100	900
Subtotal, plant	0	0	0	0	0			0	0	0
Total, transportation	97,628	84,490	95,861	95,861	95,861	19,500	19,500	115,361	115,361	110,461

MULTISECTOR (SECTION 110(d))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $3,200,000 for multisector conservation research and development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $5,200,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Committee Action: The Committee approves an increase of $2 million in the Energy Related Inventions Program to be directed to the Department of Energy (DOE). These funds are intended to be used for the purposes of reducing the present backlog of inventions by shortening the time involved in the process of review and evaluation of inventions and the awarding of grants. In addition, the Committee encourages the Department of Energy to provide additional staff for all phases of this program to accomplish the task of reducing the backlog of inventions and to shorten the time involved in invention review and evaluation.

CONSERVATION MULTISECTOR

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Inventors program	2,000	2,000	3,200	3,200	2,500	2,000	2,000	5,200	5,200	4,500
Subtotal, operating	2,000	2,000	3,200	3,200	2,500	2,000	2,000	5,200	5,200	4,500
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, multisector	2,000	2,000	3,200	3,200	2,500	2,000	2,000	5,200	5,200	4,500

GENERAL SCIENCE AND RESEARCH (SECTION 113)

The President's purposed budget for fiscal year 1980 requests authorization and appropriation for three general science and research programs: (1) life sciences research and biomedical applications, (2) high energy physics, and (3) nuclear physics.

LIFE SCIENCES RESEARCH AND BIOMEDICAL APPLICATIONS (SECTION 113(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $42,237,000 for life sciences research and biomedical applications. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

HIGH ENERGY PHYSICS (SECTION 113(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $530,533,000 to support an appropriation of $327,133,000 for high energy physics research (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

NUCLEAR PHYSICS (SECTION 113(c))

General

The President's proposed budget for the fiscal year 1980 requests an authorization and appropriation of $104,768,000 for nuclear physics research. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any increase or decrease in the overall proposed budget. However, the Committee recommends an amendment to require that $1 million of the funds requested for the nuclear physics program under the Office of Energy Research is to be made available for continuation of the University Reactor Sharing program. This program has been on going for a number of years and provides funds to small colleges and universities to utilize reactors located at other universities for basic research experiments.

LIFE SCIENCES RESEARCH AND BIOMEDICAL RESEARCH—GENERAL SCIENCE AND RESEARCH

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
General life sciences	23,036	22,782	22,910	22,910	22,000			22,910	22,910	22,000
Biomedical applications	16,438	16,250	17,590	17,590	17,000			17,590	17,590	17,000
Program direction	195	221	237	237	237			237	237	237
Subtotal, operating	39,669	39,253	40,737	40,737	39,237			40,737	40,737	39,237
Subtotal, capital equipment	1,100	800	1,500	1,500	800			1,500	1,500	800
Subtotal, plant	0	0	0	0	0			0	0	0
Total, life sciences research and biomedical applications	40,769	40,053	42,237	42,237	40,037			42,237	42,237	40,037

HIGH ENERGY PHYSICS—GENERAL SCIENCE AND RESEARCH

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Physics research	64,050	63,400	71,850	71,850	71,200			71,850	71,850	71,200
Facility operations	94,050	93,100	105,100	105,100	104,150			105,100	105,100	104,150
High energy technology	35,850	35,450	37,050	37,050	36,650			37,050	37,050	36,650
Program direction	779	973	1,133	1,133	1,133			1,133	1,133	1,133
Subtotal, operating	194,729	192,923	215,133	215,133	213,133			215,133	215,133	213,133
Subtotal, capital equipment	41,200	46,200	36,000	36,000	30,000			36,000	36,000	30,000
Subtotal, plant	35,000	18,500	279,400	76,000	45,400			279,400	76,000	45,400
Total, high energy physics	270,929	257,623	530,533	327,133	288,533			530,533	327,133	288,533

HIGH ENERGY PHYSICS—GENERAL SCIENCE AND RESEARCH

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-CS-1	Accelerator improvements and modifications, various locations	6,000	0	0	6,000	6,000	1,500			6,000	6,000	1,500
80-GPP-1	General plant projects	5,000	0	0	5,000	5,000	1,000			5,000	5,000	1,000
79-9-B	Energy saver, Fermi National accelerator laboratory, Batavia, Ill. $12,000,000 authorization, $12,000,000 app. fiscal year 1979)	38,900	12,000	8,700	26,900	20,000	17,900			26,900	20,000	17,900
78-10-B	Intersecting storage accelerator (Isabelle) 400 x 400 GEV, Brookhaven National Laboratory, Upton, N.Y.	0	33,500	14,800	241,500	45,000	25,000			241,500	45,000	25,000
	Total, high-energy physics	0	45,000	23,500	279,400	76,000	45,400			279,400	76,000	45,400

NUCLEAR PHYSICS—GENERAL SCIENCE AND BASIC RESEARCH

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Medium energy physics	38,430	37,690	41,700	41,700	40,600			41,700	41,700	40,600
Heavy ion physics	30,650	30,300	33,600	33,600	32,800			33,600	33,600	32,800
Nuclear theory	5,740	5,540	6,100	6,100	5,900			6,100	6,100	5,900
Program direction	264	331	368	368	368			368	368	368
Subtotal, operating	75,084	73,861	81,768	81,768	79,668			81,768	81,768	79,668
Subtotal, capital equipment	7,500	6,700	8,200	8,200	8,000			8,200	8,200	8,000
Subtotal, plant	0	0	14,800	14,800	6,500			14,800	14,800	6,500
Total, nuclear physics	82,584	80,561	104,768	104,768	94,168			104,768	104,768	94,168

NUCLEAR PHYSICS—GENERAL SCIENCE AND BASIC RESEARCH

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

								Committee recommendation				
			Prior years		Fiscal year 1980			Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-GS-2	Bates linear accelerator beam recirculator, Middleton, Mass.	1,800	0	0	1,800	1,800	700			1,800	1,800	700
80-GS-3	Experimental support addition, Los Alamos Scientific Laboratory, N. Mex.	2,400	0	0	2,400	2,400	200			2,400	2,400	200
80-GS-4	Accelerator improvements and modifications, various locations	1,600	0	0	1,600	1,600	300			1,600	1,600	300
80-GS-5	National superconducting lab, Michigan State University (A-E and long-lead procurement)	6,000	0	0	6,000	6,000	4,700			6,000	6,000	4,700
80-GPP-1	General plant projects	3,000	0	0	3,000	3,000	600			3,000	3,000	600
	Total, nuclear physics	0	0	0	14,800	14,800	6,500			14,800	14,800	6,500

URANIUM ENRICHMENT-PROCESS DEVELOPMENT (SECTION 116)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $95,430,000 for Uranium Enrichment-Process development. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

URANIUM ENRICHMENT—PROCESS DEVELOPMENT

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Gaseous diffusion	15,100	16,100	14,000	14,000	14,500			14,000	14,000	14,500
Gas centrifuge	60,700	57,050	63,400	63,400	61,800			63,400	63,400	61,800
Subtotal, operating	75,800	73,150	77,400	77,400	76,300			77,400	77,400	76,300
Subtotal, capital equipment	4,700	2,350	5,030	5,030	4,950			5,030	5,030	4,950
Subtotal, plant	7,000	3,000	13,000	13,000	11,000			13,000	13,000	11,000
Total, uranium enrichment	87,500	78,500	95,430	95,430	92,250			95,430	95,430	92,250

URANIUM ENRICHMENT—PROCESS DEVELOPMENT

RESEARCH AND DEVELOPMENT—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
79-2-d	Technology test facilities, various locations (A-E and longlead procurement only)	20,000	7,000	3,000	13,000	13,000	11,000	----------	----------	13,000	13,000	11,000
	Total, uranium enrichment activities	0	7,000	3,000	13,000	13,000	11,000	----------	----------	13,000	13,000	11,000

GEOTHERMAL RESOURCES DEVELOPMENT FUND (SECTION 119)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $288,000 to support an appropriation of $6,288,000 for the geothermal resources development fund. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Geothermal resources development fund	284	6,298	288	6,288	1,000			288	6,288	1,000
Subtotal, operating	284	6,298	288	6,288	1,000			288	6,288	1,000
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, geothermal resources development fund	284	6,298	288	6,288	1,000			288	6,288	1,000

REGULATION AND INFORMATION AND OTHER ACTIVITIES (TITLE II)

General

This title contains authorizations for the Economic Regulatory Administration, the Office of Hearings and Appeals, the Federal Energy Regulatory Commission, and the Energy Information Administration, as follows:

ECONOMIC REGULATORY ADMINISTRATION (SECTION 201)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $133,646,000 to support an appropriation of $156,646,000 for the Economic Regulatory Administration. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends adoption of the President's Budget for the Economic Regulatory Administration with one change: funding for utility programs and regulatory intervention would be increased by $2,000,000 above the President's request in order to provide funds to a research institute established by the National Association of Regulatory Utility Commissioners pursuant to section 603 of the Public Utilities Regulatory Policies Act (16 U.S.C. 2645).

COMPETITION IN CRUDE OIL SALES (SECTION 208)

In the 95th Congress during consideration of S. 2692, the bill authorizing appropriations for civilian programs of the Department of Energy for fiscal year 1979, the Committee adopted an amendment requiring the President to review regulations promulgated under the Emergency Petroleum Allocation Act of 1973 respecting crude oil supplier/purchaser relationships and to remove those provisions which restrict competition. The rationale for this amendment is set forth in detail in the Committee's report on S. 2692, Senate Report No. 95-967.

The Committee is unaware of any comprehensive review or modification of these regulations by the President since the filing of Senate Report No. 95-967. However, during the intervening time, the Bureau of Competition of the Federal Trade Commission and the Antitrust Division of the Justice Department have filed written comments with the Department of Energy urging that such a review take place. The Committee agrees, and therefore adopted language identical to that contained in the fiscal year 1979 authorization bill.

ECONOMIC REGULATORY ADMINISTRATION

REGULATION AND INFORMATION AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Coal utilization	14,430	13,420	20,333	20,333	16,626			20,333	20,333	16,626
Utility programs and regulatory intervention	19,593	19,204	7,694	30,694	28,253	2,000	2,000	9,694	32,694	30,253
Compliance	55,534	55,774	60,428	60,428	57,953			60,428	60,428	57,953
ERA regulation development	2,151	1,863	5,266	5,266	4,553			5,266	5,266	4,553
Fuels regulation	6,269	5,612	5,166	5,166	5,753			5,166	5,166	5,753
Emergency preparedness	30,637	10,547	32,600	32,600	38,200			32,600	32,600	38,200
Program administration	1,451	1,451	2,159	2,159	2,152			2,159	2,159	2,152
Subtotal, operating	130,065	107,871	133,646	156,646	153,490	2,000	2,000	135,646	158,646	155,490
Subtotal, capital equipment								0	0	0
Subtotal, plant								0	0	0
Total, Economic Regulatory Administration	130,065	107,871	133,646	156,646	153,490	2,000	2,000	135,646	158,646	155,490

OFFICE OF HEARINGS AND APPEALS (SECTION 202)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $3,000,000 for the Office of Hearings and Appeals. (OHA). (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee recommends an authorization of $5,942,000 for the Office of Hearings and Appeals for fiscal year 1980.

This funding level represents an increase of $2,942,000 above the level recommended in the President's proposed budget. The Committee is impressed by testimony indicating that the caseload of this Office has been growing rapidly. Because the likelihood that fuel shortages will continue in most areas of the country, this caseload may remain at levels far above those contemplated when the President's proposed budget was prepared.

The Committee is particularly concerned that individuals engaged in the marketing of fuels have an opportunity to communicate with the Office of Hearings and Appeals in the DOE regional offices. It should not be necessary for all such individuals to come to Washington, D.C., to obtain information or advice concerning requests for administrative relief. The Committee anticipates that the increase in support for OHA which is being recommended will permit prompt and thorough consideration of the increased caseload of the Office through more extensive use of OHA staff in DOE regional offices as well as from enhancement of the capabilities of the OHA national office.

The Committee's recommendation for an increase in funding, based on information provided by OHA, contemplates additional staffing support for fiscal year 1980 for the regions of $1,567,000 (57 positions) and $1,375,000 for the national office (50 positions).

OFFICE OF HEARINGS AND APPEALS

REGULATION AND INFORMATION AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Subtotal, operating expenses	2,668	2,668	3,000	3,000	2,995	2,942	2,942	5,942	5,942	5,937
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, office of hearings and appeals	2,668	2,668	3,000	3,000	2,995	2,942	2,942	5,942	5,942	5,937

FEDERAL ENERGY REGULATORY COMMISSION (SECTION 203)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $73,187,000 for the Federal Energy Regulatory Commission. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

FEDERAL ENERGY REGULATORY COMMISSION

REGULATION AND INFORMATION AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Oil regulation	5,138	4,138	4,973	4,973	4,592			4,973	4,973	4,592
Gas regulation	33,781	31,559	41,365	41,365	38,931			41,365	41,365	38,931
Hydro regulation	10,900	10,207	12,520	12,520	11,779			12,520	12,520	11,779
Multiresource regulation	14,011	13,127	14,329	15,079	14,304			14,329	15,079	14,304
Subtotal, operating	63,830	59,031	73,187	73,937	69,606			73,187	73,937	69,606
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, Federal Energy Regulatory Commission	63,830	59,031	73,187	73,937	69,606			73,187	73,937	69,606

ENERGY INFORMATION ADMINISTRATION (SECTION 204)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $85,657,000 to support an appropriation of $85,663,000 for the Energy Information Administration. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

ENERGY INFORMATION ADMINISTRATION

REGULATION AND INFORMATION AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Energy applied analysis:										
Energy analysis forecasting	9,649	8,849	9,141	9,141	10,641			9,141	9,141	10,641
Energy economy analysis	3,278	3,278	3,498	3,498	3,498			3,498	3,498	3,498
Analysis access and development	1,130	1,130	1,232	1,232	1,232			1,232	1,232	1,232
Total, energy applied analysis	14,057	13,257	13,871	13,871	15,371			13,871	13,871	15,371
Collection, production, and dissemination:										
Financial reporting system	2,710	2,710	2,822	2,822	2,822			2,822	2,822	2,822
Oil and gas information system	5,136	5,136	5,367	5,367	5,367			5,367	5,367	5,367
Energy information services	1,619	1,619	1,812	1,812	1,812			1,812	1,812	1,812
Electric utilities	3,962	3,962	4,790	4,796	4,790			4,790	4,796	4,790
Petroleum and natural gas data	15,488	11,238	16,125	16,125	18,675			16,125	16,125	18,675
Emerging energy services and international energy data	1,598	1,598	1,871	1,871	1,871			1,871	1,871	1,871
Consumption data	5,915	5,915	6,036	6,036	6,036			6,036	6,036	6,036
Emergency management information system	4,626	4,626	5,233	5,233	5,033			5,233	5,233	5,033
Total collection, production, and dissemination	41,054	36,804	44,056	44,062	46,406			44,056	44,062	46,406
Data validation	10,885	8,885	15,884	15,884	13,884			15,884	15,884	13,884
Data information services:										
Support to regulatory programs	6,501	6,501	7,109	7,109	7,109			7,109	7,109	7,109
Support to conservation and solar applications	1,811	1,811	2,046	2,046	2,046			2,046	2,046	2,046
All other support	2,266	2,266	2,691	2,691	2,691			2,691	2,691	2,691
Total, data information services	10,578	10,578	11,846	11,846	11,846			11,846	11,846	11,846
Total, energy information administration	76,574	69,524	85,657	85,663	87,507			85,657	85,663	87,507

STRATEGIC PETROLEUM RESERVES (SECTION 205)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $8,391,000 for the strategic petroleum reserves. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Administration request anticipates that $2,075,294,000 in budget authority will carryover from fiscal year 1979 to 1980. The Committee concurs in the recommendation of the Congress in the First Concurrent Budget Resolution that $1 billion of this existing budget authority for the Strategic Petroleum Reserve, which could not be obligated in fiscal year 1980, be rescinded rather than also carry over from fiscal year 1980 to 1981 as is anticipated. Consequently, the estimated budget authority available to the Department in fiscal year 1980 would be $1,075,294,000, including $965,467,000 for the purchase of oil, $97,827,000 for facilities development, and $12,000,000 for planning costs.

Background: DOE is not currently attempting to purchase crude oil for the SPR, because of the tight situation in the world oil market. The last contract for the purchase of SPR oil was entered into in October 1978, although deliveries will continue into August 1979. Two solicitations for about 75 million barrels of crude oil were processed in March 1979, however no contracts were awarded, because the offers were not acceptable in terms of quantity and/or price. In late May 1979, DOE advised that it had established a task force to analyze a series of purchase/acquisition strategies for SPR crude oil requirements. In the event that purchases resume in July, deliveries could possibly resume in November 1979. Rescission of $1 billion in budget authority would obviously impact future fill schedules by requiring DOE to obtain new budget authority for fiscal year 1981, however it would not preclude the resumption of crude oil acquisition during fiscal year 1980.

REGIONAL PETROLEUM RESERVES (SECTION 206)

The Committee approved an amendment to the Energy Policy and Conservation Act to require the establishment of regional and noncontiguous components of the Strategic Petroleum Reserve.

Committee Action: The Committee approved an amendment to the Energy Policy and Conservation Act (EPCA) to require the establishment of regional and non-contiguous components of the Strategic Petroleum Reserve.

Background: EPCA requires that the SPR Plan provide for the establishment if a regional petroleum reserve in, or readily accessible to, any FEA region that imported 20 percent or more of its refined product demand during the preceding 24 months (Section 157(a)).

EPCA also requires that the SPR Plan be designed to assure, to the maximun extent practicable, that each non-contiguous area of the U.S. which does not have overland access to domestic crude oil production has its own component of the SPR within its respective territory.

The present SPR Plan does not provide for any regional or noncontiguous area components. Instead, it calls for the centralized storage of crude oil in underground salt domes or mines or in rock caverns. The authors of the SPR Plan concluded that centralized storage in the Gulf Coast area would provide a reserve that would be readily accessible to FEA regions 1 and 4 (which met the required criteria of dependence on imported product), as well as all other regions of the country. FEA determined that it was not practicable or necessary to store a portion of the SPR in the non-contiguous areas.

In February 1977, when the SPR Plan was being considered by Congress, the FEA Administrator assured the Energy and Natural Resources Committee that the need for regional and non-contiguous area storage components would be re-evaluated by the new Administration.

An amendment to the SPR Plan was proposed by DOE in April 1978, to establish a 20-million-barrel residual fuel or substitute petroleum product storage component of the SPR which would be designated for use by the East Coast in the event of a future supply emergency. It did not address the question whether the non-contiguous areas of the U.S. would receive SPR components. The proposed amendment was rejected by the Senate, because it stipulated that only those storage sites for the product component would be considered whose costs were approximately the same as the salt dome storage costs—thereby ruling out any in-region storage locations.

On March 20, 1979, the General Accounting Office submitted a letter report to DOE regarding the SPR program. GAO pointed out that EPCA requires DOE to annually develop and evaluate product demand and import data for each of the regions to determine whether regional products storage is needed to offset the impact of a future supply interruption. DOE, said GAO, has failed to comply with this requirement. As part of its conclusions, GAO declared:

> * * * While DOE believes that no regional reserves, other than for residual oil, are needed and collection of the data necessary to more effectively implement the law may not be cost effective, DOE has not made the analysis necessary to support this belief.

The intent of EPCA was to provide a minimum measure of protection to regions and non-contiguous areas of the U.S. which would be particularly vulnerable to future supply interruptions. That intention was frustrated by the FEA authors of the SPR Plan who, instead, opted for a more economical form of centralized crude oil storage and a complex formula for transporting the stored crude oil to refineries and thence to users in the regions and non-contiguous areas.

The Committee believes that the cost factor, by itself, should not be the paramount consideration to be used in establishing the SPR system. The most important aspect of the SPR is the need to locate the storage components at sites where the crude oil and petroleum products will be available to meet the needs of all users. In order to assure the establishment of regional and non-contiguous area components of the SPR, the Committee concluded that it is necessary to mandate their creation by eliminating the discretionary language in EPCA. Locations and size of such components would be incorporated into a proposed amendment to the SPR Plan and submitted to Congress for its approval.

REPORT ON OIL ACQUISITION (SECTION 207)

The Committee in section 207 adopted an amendment to require DOE to notify the Committee and Congress of its strategy for future crude oil or product purchases for the Strategic Petroleum Reserve (SPR) before contracting for the purchases. Currently, SPR purchases have been suspended because of the situation in the world oil market, even though several billion dollars in appropriated funds are available for this purpose.

Earlier this year, DOE actively considered diverting incoming SPR oil, before placed in storage, into the commercial market to reduce shortfalls resulting from the Iranian supply interruptions and subsequent events. The DOE now has a task force at work to consider a series of alternatives for continuing SPR purchases at some point in the future, or deferring them completely for some time. Obviously, any such DOE purchases could have a significant impact on the domestic and world oil market, in terms of pricing, supply and the viability of OPEC.

The Committee amendment will ensure that the Committee and Congress is notified and fully informed regarding such a purchase strategy before it is implemented. The notification and accompanying report will provide an opportunity for the Congress to consider fully DOE intentions for use of the SPR funds. This requirement, however, is not intended and should not be construed as any withdrawal of Committee support for the SPR concept or program in fiscal year 1980.

STRATEGIC PETROLEUM RESERVE

REGULATION AND INFORMATION AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Planning	24,200	28,790	0	0	10,000			0	0	10,000
Petroleum acquisition and transportation	2,140,758	1,681,407	0	0	1,413,910			0	0	1,413,910
Facilities development	836,202	650,920	0	0	528,399			0	0	528,399
Program direction	6,658	6,693	8,391	8,391	8,391			8,391	8,391	8,391
Subtotal, operating	3,007,818	2,367,810	8,391	8,391	1,960,700			8,391	8,391	1,960,700
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, strategic petroleum reserves	3,007,818	2,367,810	8,391	8,391	1,960,700			8,391	8,391	1,960,700

COMMERCIALIZATION AND RELATED ACTIVITIES (TITLE III)

FOSSIL ENERGY (SECTION 301)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $16,795,000 for fossil energy commercialization. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $22,295,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

SHALE OIL DEVELOPMENT PROGRAM (SECTION 301 (b))

Committee Action: The Committee recommends an increase of $5.5 million for the oil shale development program to fund the oil and natural gas exploratory program on Naval oil shale reserve No. 2 in Utah.

FOSSIL ENERGY

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
COAL										
Utilization and supply:										
High-Btu coal gasification project	0	0	0	0	0			0	0	0
Medium-Btu coal gasification project	0	0	1,150	1,150	1,150			1,150	1,150	1,150
Low-Btu coal gasification project	0	0	0	0	0			0	0	0
Coal liquification	0	0	1,300	1,300	1,300			1,300	1,300	1,300
Atmospheric fluidized hed (INDUS)	0	0	0	0	0			0	0	0
Coal supply	318	318	850	850	850			850	850	850
Direct combustion	0	0	1,200	1,200	700			1,200	1,200	700
Data support	0	0	0	0	0			0	0	0
Total coal utilization and supply	318	318	4,500	4,500	4,000			4,500	4,500	4,000

FOSSIL ENERGY—Continued

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES—Continued

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
OIL										
Shale oil development program:										
Shale reserves development program	1,300	993	2,000	2,000	2,000	5,500	5,500	7,500	7,500	7,000
Oil shale commercialization	1,000	600	3,000	3,000	3,000			3,000	3,000	3,000
Total, shale oil development	2,300	1,593	5,000	5,000	5,000	5,500	5,500	10,500	10,500	10,000
Oil and gas development projects:										
Enhanced oil recovery	0	0	500	500	400			500	500	400
Enhanced gas recovery	0	0	2,000	2,000	1,700			2,000	2,000	1,700
Supply Initiatives	365	365	500	500	400			500	500	400
Total, oil and gas development projects	365	365	3,000	3,000	2,500			3,000	3,000	2,500
Program direction	3,711	3,914	4,295	4,295	4,295			4,295	4,295	4,295
Subtotal, operating	6,694	6,190	16,795	16,795	15,795	5,500	5,500	22,295	22,295	20,795
Subtotal, Capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, coal and oil	6,694	6,190	16,795	16,795	15,795	5,500	5,500	22,295	22,295	20,795

RENEWABLE RESOURCES (SECTION 302)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $33,479,000 to support an appropriation of $66,979,000 for renewable resources commercialization. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $41,479,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Commercialization Planning (Section 302(a))

Committee Action: The Committee recommends an increase of $8 million in budget authority for solar commercialization activities to be allocated to the regional solar network (i.e., the Regional Solar Energy Centers (RSEC's). It is the understanding of the Committee that in fiscal year 1980 the Department had already planned to fund the regional solar network through three separate budget line items—Solar Commercialization Planning and Assessment, Market Development and Training, and Demonstrations—at a total of approximately $18 million. The Committee intends that the increase provided here be used to supplement these funds for a total of approximately $26 million.

The Committee is concerned that the capability of the Regional Solar Energy Centers (RSEC's) to perform satisfactorily the critical task of the commercialization of solar energy and conservation integral to solar is seriously jeopardized by the failure of the Department to conclude even annual contracts with the Centers. The Committee therefore directs the Department, through the office of the Assistant Secretary for Conservation and Solar Applications, to develop mechanisms, including multi-year contracts and single year program guides, which will assure the viability and stability of the RSEC's. The Department is further directed to submit a statement describing its programmatic intent, including proposed funding limits, for a period of 5 years.

Hydropower Projects

Committee Action; The Committee recommends that the Appropriations Committee fund the hydroelectric construction loan program authorized at $100 million in the National Energy Conservation policy Act of 1978 (Public Law 95–619).

The Committee urges DOE to set up a New England program office for handling small hydroelectric projects.

SMALL COMMUNITY HYDROELECTRIC ASSISTANCE PROGRAM (SECTION 305)

The Committee in section 305 adopted an amendment to the Public Utility Regulatory Policies Act of 1978 (Public Law 95–617) adding a new section 409, which authorizes $300 million loan guarantee assistance for new small hydroelectric projects of 25 MWe or less. The provision will supplement the low head hydroelectric retrofit program enacted in title IV of Public Law 95–617. The specific provisions of the amendment dealing with loan guarantee authorities parallels similar provisions in section 19 of the Federal Nonnuclear Energy Research and Development Act, Public Law 93-577, as amended by Public Law 95-238, for loan guarantee assistance for biomass energy project. The Committee has concluded that there are significant opportunities in several areas of the nation, including Alaska, to provide local sources of alternative power from new small hydroelectric projects without the necessity of direct Federal financing. The Committee intends that this new authority in title IV will not delay or dilute the important regulatory and financial assistance initiatives for retrofit of existing low head hydro dams in title IV, as enacted.

RENEWABLE RESOURCES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Federal building programs	25,668	15,486	0	23,500	25,000			0	23,500	25,000
Commercial planning	2,713	910	5,000	5,000	3,100	8,000	8,000	13,000	13,000	8,100
Market development and training	16,550	8,800	27,000	27,000	26,850	(1)		27,000	27,000	26,850
Hydropower projects										
Feasibility studies loan program	10,000	10,000	0	10,000	10,000			0	10,000	10,000
Construction loans	0	0	0	0	0		100,000	0	100,000	100,000
Loan Guarantees	0	0	0	0	0			0	0	0
Program direction	1,043	1,295	1,479	1,479	1,479			1,479	1,479	1,479
Subtotal, operating	55,974	36,491	33,479	66,979	66,429	8,000	108,000	41,479	174,979	171,429
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, renewable resources	55,974	36,491	33,479	66,979	66,429	8,000	108,000	41,479	174,979	171,429

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[1] For discussion see section 305 discussion.

CONSERVATION (SECTION 303)

Overview

The conservation commercialization program is composed of (1) building and community systems, (2) industrial, (3) transportation, and (4) State and local. (Conservation research and development is in title I.)

BUILDING AND COMMUNITY SYSTEMS (SECTION 303(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $9,762,000 to support an appropriation of $12,662,000 for building and community systems conservation commercialization programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $13,562,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Federal Energy Management Program

Committee Action: The Committee recommends that the 10-year plan required by the Energy Policy and Conservation Act (title II, section 381) be submitted for review within 60 days and that the Secretary of DOE give the Federal Energy Management Program the visibility, Departmental support and staffing needed to effectively manage the Federal buildings conservation effort.

The Committee has added $3.8 million to the Buildings and Community Systems line item to be used to fund the Federal Energy Management Program (FEMP).

$2.8 million is to be used to provide resources to perform statutorily mandated activities to coordinate conservation efforts in Federal buildings.

The Committee has also added $1 million to the FEMP budget for the establishment and operation of a clearinghouse to assist in the collection and dissemination of information about fuel conservation devices and processes and renewable resources available to, and in use by the Federal agencies. The Department is requested to develop and staff on-going information programs to promote information transfer between Federal agencies.

Additionally, funds are to be used for the development of appropriate newsletters, seminars, and other information services to be developed by the Department.

The Committee intends that the Secretary provide adequate staffing for these programs from the available positions within the management and support account within departmental administration activities.

FEDERAL SOLAR PROGRAM (SECTION 307)

The Committee amended title V, part 2 of Public Law 95-619 by extending the program by 3 years. The Committee noted that the late passage of that Act and the subsequent late promulgation of the regulations for title V precluded the operation of the program for over 2 and perhaps 3 of its 3-year lifetime. Thus, extending the program for 3 additional years will allow the mandates of original program to implemented.

BUILDINGS AND COMMUNITY SYSTEMS CONSERVATION ACTIVITIES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Appliances standards	7,575	4,675	6,000	6,000	5,000			6,000	6,000	5,000
Residential Conservation Service	4,000	3,000	0	2,900	2,900			0	2,900	2,900
Federal energy management program	500	500	400	400	300	3,800	3,800	4,200	4,200	4,100
Small business	500	300	700	700	700			700	700	700
Program direction	1,851	2,286	2,662	2,662	2,662			2,662	2,662	2,662
Subtotal, operating	14,426	10,761	9,762	12,662	11,562	3,800	3,800	13,562	16,462	15,262
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, buildings and community systems	14,426	10,761	9,762	12,662	11,562					

INDUSTRIAL (SECTION 308(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $10,509,000 for industrial conservation commercialization programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee recommends an authorization of $12,509,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

The Committee adopted an amendment adding $2 million to the bottoming cycle demonstration program in the Industrial Energy Conservation program. The Committee notes that there are promising demonstrations which cannot be funded under the Administration's budget, including the municipal power project at Lindsey, Oklahoma. The additional funds will provide support for such additional demonstrations.

INDUSTRIAL CONSERVATION ACTIVITIES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Implementation and commercialization	3,160	3,160	9,800	9,800	8,300	2,000	2,000	11,800	11,800	10,300
Program direction	761	939	709	709	709			709	709	709
Subtotal, operating	3,921	4,099	10,509	10,509	9,009	2,000	2,000	12,509	12,509	11,009
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, industrial	3,921	4,099	10,509	10,509	9,009	2,000	2,000	12,509	12,509	11,009

TRANSPORTATION (SECTION 303(c))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $3,062,000 for transportation conservation commercialization programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee does not recommend any change in the proposed budget. However, the Committee in section 306 adopted an amendment which amends the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 to establish a 7-year evaluation program of the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) calculations, pursuant to the Energy Policy and Conservation Act of 1975. An incentives study mandated by the 1976 Act identified the inclusion of electric vehicles in the CAFE calculations as a promising and potentially effective incentive for increasing the interest of fleet manufacturers in engineering development and some limited production of electric vehicles. The Committee's amendment will implement the proposal on an evaluation basis during the remaining years of the DOE program mandated by the 1976 Act. The results of the evaluation should provide increased incentive for supporting activities by fleet manufacturers and a factual basis for decisions on future electric vehicle incentives. The Committee intends that the Secretary of Transportation shall fully support the evaluation program, as called for in the amendment.

TRANSPORTATION CONSERVATION ACTIVITIES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Transportation system utilization	1,200	1,100	2,555	2,555	2,555			2,555	2,555	2,555
Program direction	342	439	507	507	507			507	507	507
Subtotal, operating	1,542	1,539	3,062	3,062	3,062			3,062	3,062	3,062
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, transportation	1,542	1,539	3,062	3,062	3,062			3,062	3,062	3,062

STATE AND LOCAL (SECTION 303(d))

General

The President's proposed budget for fiscal year 1980 requests an authorization of $6,783,000 to support an appropriation of $205,733,000 for State and local conservation commercialization programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $13,783,000 for fiscal year 1980, as follows:

Weatherization Assistance Program

The Committee recommended a $7 million increase in budget authority to provide funding to local community action agencies for labor costs incurred by the weatherization program. The Committee noted that local community action agencies have difficulty obtaining sufficient numbers of workers through CETA to effectively install weatherization materials. Moreover, new CETA regulations will decrease the number of CETA workers. Assistance provided by this increased budget authority may be used to supplement the new CETA wage ceiling or to directly hire trained workers.

The Committee intends that any funds appropriated pursuant to this additional authorization shall be transferred, in accordance with existing procedures for fund transfers, from DOE to the CSA for the weatherization programs for CSA to allocate to local community action agencies on the basis of need.

The original authorizing statute for this program requires the use of CETA workers "to the maximum extent practicable." However, the Committee agreed that when CSA finds that the local agency administering the weatherization program is unable to hire enough workers through CETA to sufficiently and effectively utilize weatherization materials the local agency should be allowed to expend available funds for other labor necessary for the weatherization program.

STATE AND LOCAL CONSERVATION ACTIVITIES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Schools and hospitals grant program	100,100	59,625	2,500	2,500	138,750			2,500	2,500	138,750
Other local Government buildings grant program	29,800	18,035	200	200	16,975			200	200	16,975
Weatherization assistance program	198,950	128,500	0	198,950	173,950	7,000	7,000	7,000	205,950	179,950
Program direction	4,310	4,819	4,083	4,083	4,083			4,083	4,083	4,083
Subtotal, operating	333,160	210,979	6,783	205,733	333,758	7,000	7,000	13,783	212,733	339,758
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, State and local	333,160	210,979	6,783	205,733	333,758	7,000	7,000	13,783	212,733	339,758

MULTIRESOURCES (SECTION 304(d))

General

The President's proposed budget for fiscal year 1980 does not request either an authorization or an appropriation for multi-sector commercialization programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $103, 000, 000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Alternative Fuels Loan Guarantees (Section 304(b)(1))

The Committee recommends an authorization of $8,000,000 for administrative expenses of this program and $90,000,000 to support $900,000,000 in loan guarantee authority, for high-Btu coal gasification demonstration, pursuant to Section 19 of the Federal Non-Nuclear Energy Research Act.

The Committee fully supports the demonstration of presently available technology for the gasification of coal to pipeline quality gas. There is a very real market demand for such synthetic natural gas, but there are also very hard questions surrounding the construction of the first large scale plant to gasify coal. These environmental, economic, and regulatory questions have combined to prevent any one of at least six proposed plants from receiving the needed financial investment. Yet this technology must be built and operated before these questions can be answered. To resolve this situation, the Committee recommends that the Federal government provide $900 million in loan guarantees for high Btu coal gasification.

With this loan guarantee authority, the Committee is also authorizing $8 million for the necessary administrative expenses. This will assure the regulations will be issued and finalized in the coming year and that a competition and selection made in fiscal year 1980. In its bill the Committee is authorizing $90 million for the revolving fund to be used only to pay off any loan default, if one should occur.

Finally, the Committee concluded that it is best to allow the Secretary to finalize a contract under this authorization as soon as the selection is made, rather than require the Congress to revisit this issue to approve the contract. The Senate has held numerous hearings and investigations on synthetic fuels continuing through this year. The Energy Committee has continuously updated this investigation with each DOE authorization, resulting in continuing support for the loan guarantee program. Therefore a further procedural step to obtain Congressional approval would be redundant and dilatory. The Committee finds that the provisions of section 19(m) are therefore satisfied. Of course, the Committee expects to be kept fully and currently informed of DOE's progress with this program.

Municipal Waste Loan Guarantees (Section 304(d)(2))

The Committee recommends to the Appropriations Committee that $5 million be appropriated to the fund created in the Treasury by paragraph 19(n)(1) of the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93–577), to support urban waste loan guarantees made pursuant to this program. For this purpose $5,000,000 is authorized in the bill.

MULTIRESOURCES—CONSERVATION ACTIVITIES

COMMERCIALIZATION AND RELATED ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Conservation, multisector alternating fuel loan guarantee program	7,000	3,950	0	0	0	98,000	98,000	98,000	98,000	38,000
Municipal waste loan guarantee programs	0	0	0	0	0	5,000	5,000	5,000	5,000	3,500
Subtotal, uperating	7,000	3,950	0	0	0	103,000	103,000	103,000	103,000	41,500
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, mutisector	7,000	3,950	0	0	0	103,000	103,000	103,000	103,000	41,500

Power Marketing, Federal Leasing and Other Activities (Title IV)

POWER MARKETING ADMINISTRATIONS (SECTIONS 401 TO 404)

General

The Federal Power Marketing Administration's market power is produced at certain Federal hydroelectric generating projects. This power is conveyed by high voltage transmission systems. The five power marketing administrations are: (1) the Alaska Power Administration; (2) Booneville Power Administration; (3) the Southeastern Power Administration; (4) the Southwestern Power Administration; and (5) the Western Area Power Administration.

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $164,392,000 for the Federal Power Marketing programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee does not recommend any changes in the proposed budget.

POWER MARKETING PROGRAMS

POWER MARKETING, FEDERAL LEASING, AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

						Committee recommendation				
	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Alaska Power Administration	2,614	2,582	2,660	2,660	2,660			2,660	2,660	2,660
Southeastern Power Administration	1,253	1,249	1,400	1,400	1,394			1,400	1,400	1,394
Southwestern Power Administration	35,909	32,909	32,180	32,180	32,180			32,180	32,180	32,180
Western Area Power Administration	104,500	104,500	122,800	122,800	122,800			122,800	122,800	122,800
WAPA emergency fund	200	400	200	200	200			200	200	200
Colorado River Basin	2,286	786	5,152	5,152	5,152			5,152	5,152	5,152
Subtotal, operating	146,762	142,426	164,392	164,392	164,386			164,392	163,492	164,386
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, power administrations	146,762	142,426	164,392	164,392	164,386			164,392	164,392	164,386

FEDERAL LEASING (SECTION 405(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $3,368,000 for federal leasing programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action. The Committee does not recommend any changes in the proposed budget.

FEDERAL LEASING

POWER MARKETING, FEDERAL LEASING, AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Author-ization	Budget authority	Budget outlay	Author-ization	Budget authority	Author-ization	Budget authority	Budget outlay
Federal leasing	1,000	1,000	2,000	2,000	1,600			2,000	2,000	1,600
Program direction	1,196	1,256	1,368	1,368	1,368			1,368	1,368	1,368
Subtotal, operating	2,196	2,256	3,368	3,368	2,968			3,368	3,368	2,968
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, Federal leasing	2,196	2,256	3,368	3,368	2,968			3,368	3,368	2,968

FUEL DATA GATHERING AND ANALYSIS (SECTION 405(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $3,000,000 for the Fuel Data Gathering and Analysis program. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee does not recommend any change in the proposed budget.

FUEL DATA GATHERING AND ANALYSIS

POWER MARKETING, FEDERAL LEASING, AND OTHER ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Mineral fuels	2,345	2,345	2,748	2,748	2,748			2,748	2,748	2,748
Petroleum and natural gas data	505	505	252	252	252			252	252	252
Subtotal, operating	2,850	2,850	3,000	3,000	3,000			3,000	3,000	3,000
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, fuel data gathering and analysis	2,850	2,850	3,000	3,000	3,000			3,000	3,000	3,000

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING (TITLE V)

URANIUM RESOURCE ASSESSMENT (SECTION 501)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $84,303,000 for uranium resource assessment programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee does not recommend any change in the proposed budget.

URANIUM RESOURCE ASSESSMENT

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS, AND DECONTAMINATION AND DECOMMISSIONING—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Uranium resource assessment	65,380	55,530	74,415	74,415	70,015			74,415	74,415	70,015
Program direction	3,711	3,934	4,278	4,278	4,278			4,278	4,278	4,278
Subtotal, operating	69,091	59,464	78,693	78,693	74,293			78,693	78,693	74,293
Subtotal, capital equipment	2,509	2,909	3,110	3,110	2,910			3,110	3,110	2,910
Subtotal, plant	0	0	2,500	2,500	500			2,500	2,500	500
Total, uranium resource assessment	71,600	62,373	84,303	84,303	77,703			84,303	84,303	77,703

URANIUM RESOURCE ASSESSMENT

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING—CONSTRUCTION

[In thousands of dollars]

		Prior years		Fiscal year 1980			Committee recommendation				
							Increase (+), decrease (−)		Total		
	TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-GPP-1 General plant projects	2,500	0	0	2,500	2,500	500			2,500	2,500	500
Total, uranium resource assessment	0	0	0	2,500	2,500	500			2,500	2,500	500

SPENT FUEL STORAGE (SECTIONS 504 AND 505)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $13,300,000 for spent fuel storage programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $313,300,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

INTERNATIONAL SPENT FUEL STORAGE (SECTION 504(a))

The Committee in section 504(a) adopted the Administration budget proposal for international spent fuel storage, but with a provision prohibiting the use of any funds by any official of the Federal Government for any site specific activity for storage of foreign spent nuclear fuel in the U.S. territories and possessions in the Pacific without prior notification to Congress. The Committee took this strong measure after the Committee became convinced that the Administration was committed to site specific activities in the Pacific territories and possessions, despite the Committee's serious concerns about any such storage proposal and the failure of the Administration to coordinate properly within the Executive Branch and to keep the Congress fully informed on the proposal. A full discussion of the Pacific Basin storage issue, and the Committee's position on it is contained in Senate Report No. 96–205, which accompanies S. 1119, as reporred, a Committee bill which contains further prohibitions on the Pacific Basin storage proposal.

AWAY FROM REACTOR STORAGE (SECTION 505)

Committee Action: The Committee voted to adopt an amendment providing for a plant and capital equipment line item project No. 79–1–p, Away-from-reactor nuclear spent fuel storage capacity of up to 5,000 metric tons, site or sites to be determined. The amendment authorized the project for a total of $300 million. The Committee anticipates that the project will result in multiple facilities to provide regional storage of spent nuclear fuel. However, the Committee placed a limitation on the amount of money that could be appropriated to the project in fiscal year 1980 of not more than $25 million until the Congress has passed legislation providing the Department of Energy with generic authority with regard to spent fuel storage. The Committee intends that that generic authority legislation should include but not be limited to authority for taking title to the fuel and charging a fee adequate to recover government costs associated with the storage of the spent fuel in facilities acquired or built under Project 79–1–p. The $25 million that is approved for appropriations is intended for such things as site specific environmental impact statements and site specific designs. Of these funds, $5 million are authorized for the purpose of conducting a further study of the need for away-from-reactor storage, including the feasibility, cost and potential sites.

The Committee also voted to adopt an amendment with regard to the siting of Project 79–1–p. The amendment directs the Secretary of

Energy to consult with the Governor and other officials of the State within which any site is under active consideration for locating part of the capacity authorized by Project 79–1–p. Upon designation of a site by the Secretary for part or all of the capacity, he is directed to notify the Governor of the affected State in writing. The Governor may disapprove of the designated site by written communication to the Secretary within 90 days. The amendment further provides that the Secretary may use that site for the project only if the Governor's objections are satisfied through further consultations.

The Committee also included a specific prohibition on the use of the spent fuel storage capacity acquired under Project 79–1–p for receipt and storage of spent nuclear fuel from foreign countries even if the nuclear fuel was initially supplied by the United States.

Study: In conducting the study required in subsection (d), the Secretary is to include consideration of the technical, economic and regulatory factors associated with providing spent fuel storage capacity in existing or potential at-reactor storage pools, including expansion or modification of these storage pools. Also, the study is to determine the requirements for AFR storage resulting from a lack of storage capacity at present or prospective at-reactor storage capacity. This determination is to be based on specific data regarding the storage capacity needed to accommodate spent fuel from such reactor pools by January 1, 1985, and to be based on the assumption that maximal use is made of available storage capacity at reactors, including expansion of storage pools, to the extent permitted by NRC licensing authority and regulations.

The study is also to address the time needed to establish AFR storage capacity using the best available design and technology along with estimated costs in comparison to expansion or modification of existing at-reactor storage pools. The study is to determine the availability of existing private or government capacity, other than Project 79–1–p, for the emergency storage of foreign spent fuel, including specification of the ownership and site of such facilities. Further, the study is to include existing recommendations or findings by other Federal Agencies or the Executive Branch regarding AFR storage and any other pertinent information identified during the study.

The Secretary is expected within one month of enactment of this act to publish his recommendations and supporting justifications resulting from the study. The data and findings on which the study is based are to be concurred in by the NRC. An abbreviated version of the study is to be published in the Federal Register and copies sent to the President, the Congress, and the Governor of any state where a potential site for any AFR facility has been identified. The study report is to identify one or more potential AFR storage facility sites as well as at-reactor storage capacity which can continue to be used, including through expansion of such capacity. Since the AFR capacity is intended for temporary storage only, the Secretary is directed to identify the time period in which the AFR facility will be needed. In selecting potential sites for AFR capacity, the Secretary is expected to consider transportation problems, including safety and environmental factors, associated with moving spent fuel to an AFR facility; the location of the specific nuclear powerplants which require shipment of spent fuel to an AFR facility; and requirements of existing

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law. The study report is to provide a formula to recover all Federal costs associated with acquisition, construction, maintenance, operation, and de-contamination and de-commissioning of any AFR facility to be built through a per-unit charge for spent nuclear fuel. The fee to be charged, including ultimate disposal costs, is to be compared to the fee covering only the AFR storage costs.

The Secretary is also directed to hold public hearings in such states in the vicinity of the potential sites with fully adequate notice to interested parties so that they may, along with the Governor of the State, present a full range of views, arguments, and rebuttal arguments. It is expected that the Secretary will complete such hearings by March 1, 1980, and then issue a final report to the President and the Congress within 90 days of completion of the hearings. The final study should review the initial study report for possible modification and designate one or more sites for AFR storage facilities. The final report should include recommendations with supporting justifications as well as comments by other participating Federal agencies. The recommendations should include at a minimum a number of AFR facilities, a management scheme, all associated costs, the formula for recovery of Federal costs from eligible parties who send fuel to the facilities, and the ownership of such fuel. The study and reports are to be conducted in consultation and coordination with the NRC, DOT, CEQ, and EPA.

The Committee intends that the conduct of this study will not delay any of the activities associated with Project 79–1–p otherwise authorized by this section, and the Committee expects the Secretary to proceed expeditiously with all authorized activities to implement this section and the Project.

SPENT FUEL STORAGE

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS, AND DECONTAMINATION AND DECOMMISSIONING—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
International spent fuel storage	1,800	1,800	3,500	3,500	3,300			3,500	3,500	3,300
Domestic spent fuel storage	2,100	2,100	9,800	9,800	9,200			9,800	9,800	9,200
Program direction	0	0	0	0	0			0	0	0
Subtotal, operating	3,900	3,900	13,300	13,300	12,500			13,300	13,300	12,500
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	5,000	1,000	0	0	0	300,000	25,000	300,000	25,000	2,500
Total, spent fuel disposition	8,900	4,900	13,300	13,300	12,500	300,000	25,000	313,300	38,300	15,000

SPENT FUEL STORAGE

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
79-1-p	Away-from-reactor nuclear spent fuel storage capacity of up to 5,000 metric tons, site or sites to be determined	280,000	5,000	1,000	0	0	0	300,000	25,000	300,000	25,000	2,500
	Total, spent fuel disposition	0	5,000	1,000	0	0	0	300,000	25,000	300,000	25,000	2,500

DECONTAMINATION AND DECOMMISSIONING (SECTION 506)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $23,000,000 for decontamination and decommissioning programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee does not recommend any change in the President's proposed budget; however, the Committee recommends funding for a study to determine the costs associated with decontamination and decommissioning of commercial nuclear powerplants after their useful lives. The Committee directed that $1 million be provided for this study from within the funds available to the Department of Energy for policy studies rather than from the budget for decontamination and decommissioning.

DECONTAMINATION AND DECOMMISSIONING

NUCLEAR ASSESSMENT, SPENT FUEL STORAGE, OPERATIONS, AND DECONTAMINATION AND DECOMMISSIONING—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Remedial action for former DOE contactor installation MED/AEC SITE	4,980	4,360	11,500	11,500	8,860			11,500	11,500	8,860
Remedial action for inactive uranium mill tailing sites	3,530	3,000	11,500	11,500	9,000			11,500	11,500	9,000
Subtotal, operating	8,510	7,360	23,000	23,000	17,860			23,000	23,000	17,860
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, Decontamination and Decommissioning	8,510	7,360	23,000	23,000	17,860			23,000	23,000	17,860

Other Renewable Resources and Conservation Activities (Title V)

BUILDING AND COMMUNITY SYSTEMS (SECTION 601(a))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $6,675,000 for building and community systems programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee does not recommend any changes in the proposed budget.

BUILDINGS AND COMMUNITY SYSTEMS

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Analysis and technology transfer	2,800	2,800	5,400	5,400	4,400			5,400	5,400	4,400
Program direction	887	1,096	1,275	1,275	1,275			1,275	1,275	1,275
Subtotal, operating	3,687	3,896	6,675	6,675	5,675			6,675	6,675	5,675
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, buildings and community system	3,687	3,896	6,675	6,675	5,675			6,675	6,675	5,675

STATE ENERGY MANAGEMENT AND PLANNING (SECTION 601(b))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $110,000,000 for State energy management and planning programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $112,375,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Committee Action: The President's fiscal year 1980 budget proposes $110 million for State energy management planning pursuant to the Energy Management and Partnership Act of 1979. The principal purposes of the legislation are (1) to consolidate three present State grant programs—the State Energy Conservation Program, the Supplemental Energy Conservation Program, and the Energy Extension Service; and (2) to integrate the administrative procedures for the other existing State grant programs. However, the proposed bill was not transmitted to the Congress by the Administration until May 18, 1979.

The Committee recommends continuation separately in fiscal year 1980 of the three programs that would be consolidated under the proposed legislation. The committee recommendation for fiscal year 1980 for the Energy Policy and Conservation Act grant program is $59,000,000; for the Energy Conservation and Production Act grant program $20,000,000; and for expansion of the Energy Extension Service program, $30,000,000. In addition, the Committee recommends $3,375,000 for program direction. This represents an increase of $29,575,000 over fiscal year 1979 for State energy management and planning, although the Committee recommendation is a decrease of $7,625,000 from the President's budget request. The Committee intends, however, to consider separately authorizations for the new State programs envisioned by the proposed legislation.

Program Coordination

The Committee directed the Department of Energy to report to the Committee on specific plans for integrating the conservation and solar programs in the following Federal/State programs and for coordinating the same programs in those instances where their responsibilities overlap: State Energy Conservation Plans (42 U.S.C. 6325), Energy Extension Service, Residential Energy Conservation Program (Public Law 95–619, Title II), Energy Conservation Programs for Schools and Hospitals and Buildings owned by Units of Local Governments and Public Care Institutions (Public Law 95–619, Title III), and the Regional Solar Energy Centers.

Energy Policy and Conservation Act Grants (section 601(b)(1))

On June 5, 1979, the Senate adopted S. 1030, the Emergency Energy Conservation Act of 1979. This legislation establishes a comprehensive framework for emergency energy conservation involving State government. The Committee anticipates that the legislation will be enacted during the 96th Congress, and that, subsequent to such enactment, the State efforts in emergency energy conservation supported under this Act will be conformed to the requirements of S. 1030.

The Committee thus authorized an increase of $10,000,000 in funding for financial assistance under Part C of title III of the Energy Policy and Conservation Act (EPCA; 42 USC 6321–23). The Committee specifically intends that these additional funds be available to support the preparation of standby energy conservation plans by each of the several States to significantly reduce energy demand during a severe energy supply interruption. Authority to provide financial assistance for these purposes is contained in section 362(e) of EPCA.

In any event, the Committee strongly feels that the current shortages of gasoline and diesel fuel provide clear evidence of the need for a capability for flexible response to energy supply shortfalls. Because State government can best fashion plans which take advantage of local opportunities to conserve energy while minimizing adverse economic impacts, the Committee places special importance on the approach to energy conservation embodied in S. 1030 and EPCA. The Committee therefore expects that the Department of Energy will provide for availability of funds under section 362(e) of EPCA on an urgent basis.

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The Committee also approved an amendment that would restrict State financial assistance under Part C of title III of the Energy Policy and Conservation Act (State Energy Conservation Programs and Supplemental State Energy Conservation Programs) to those States which have adopted the so-called "Western rule" permitting right turn on red except where specifically prohibited by a traffic sign for reasons of safety.

MULTISECTOR (SECTION 601(c))

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $9,135,000 for multi-sector programs under this title. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $23,635,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Appropriate Technology

The Committee recommended an increase in budget authority of $14.5 million for the Small Scale Technology Program. This increase is intended primarily for increasing the number of grants awarded under the Small Scale Technology Program. However, the Committee recommended also an expanded effort in evaluating the projects which have received grants.

Energy Impact Assistance

Subsequent to Senate approval of section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620), the President announced support for a comprehensive energy impact assistance program. Similar support was enunciated in the President's 1979 State of the Union Message to the Congress. However, no appropriations in fiscal year 1980 are sought for the 601 program although $120 million are authorized. Rather, the proposed budget requests $150 million pursuant to legislation yet to be enacted which would provide a generic energy impact assistance program to be administered by the Economic Development Administration.

Committee Action: The Committee recommends an appropriation of $120 million to fund the 601 program. The Committee further recommends that such appropriation be accompanied by an equivalent reduction in the budget authority provided in the President's proposed budget for fiscal year 1980 for the proposed generic program so as to avoid double counting such budget authority within the budget resolution. At such time as further legislation is enacted its interrelationship with section 601 can be addressed by the Congress.

The Committee also approved an amendment to section 601(a)(1)(A) of the Powerplant and Industrial Fuel Use Act of 1978 to clarify the definition of "base year" so as to be consistent with the legislative history of this provision in the Senate during the 95th Congress. The issue goes to the Governor's discretion to choose which two consecutive year periods are to serve as the base years in determining if an area within the State is eligible for impact aid. The committee amendment would define the base year as the most recent calendar year determined by the Governor of the appropriate State to be prior to the occurrence of the most significant impact on the designated area. This may be any calendar year selected by the Governor.

In addition the committee amendment would allow jurisdictions to qualify as impacted areas if they could show population increases directly related to coal or uranium development in the surrounding area. Often, the jurisdictions which are experiencing socio-economic impacts of energy development are not within the same county, or even state, where the actual energy development is taking place. Consequently these areas often must bear the burdens of impact without sharing in the increased tax base which development will eventually bring.

STATE ENERGY MANAGEMENT AND PLANNING

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
EPCA	47,800	47,800	0	0	12,150	59,000	59,000	59,000	59,000	46,425
ECPA	20,000	18,551	0	0	7,500	20,000	20,000	20,000	20,000	20,100
Energy Extension Service	15,000	12,222	0	0	7,500	30,000	30,000	30,000	30,000	26,500
Program direction	0	0	0	0	0	3,375	3,375	3,375	3,375	3,375
State energy management and planning	0	0	110,000	110,000	69,250	−110,000	−110,000	0	0	0
Subtotal, operating	82,800	78,573	110,000	110,000	96,400	2,375	2,375	112,375	112,375	96,400
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, State energy management and planning	82,800	78,573	110,000	110,000	96,400	2,375	2,375	112,375	112,375	96,400

MULTISECTOR

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Energy impact assistance	20,000	1,000	0	0	5,000		120,000	0	120,000	40,000
Appropriate technology	8,000	8,000	8,500	8,500	8,200	14,500	14,500	23,000	23,000	19,200
Program direction	246	388	635	635	635			635	635	635
Subtotal, operating	28,246	9,388	9,135	9,135	13,835	14,500	134,500	23,635	143,635	59,835
Subtotal, capital equipment	0	0	0	0	0			0	0	0
Subtotal, plant	0	0	0	0	0			0	0	0
Total, multisector	28,246	9,388	9,135	9,135	13,835	14,500	134,500	23,635	143,635	59,835

OTHER DEPARTMENTAL ACTIVITIES (TITLE VII)

URANIUM ENRICHMENT ACTIVITIES (SECTION 701)

General

The President's proposed budget for fiscal year 1980 requests an authorization of $1,031,049,000 to support an appropriation of $1,144,024,000 for uranium enrichment activities (other than process development). (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $1,131,049,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

GASEOUS DIFFUSION (SECTION 701(a))

The Committee adopted an amendment which increases the funds for uranium enrichment operations by $100 million. These operating funds will be used to fund the uranium enrichment diffusion plants. The diffusion plants now are in the process of pre-production of enriched uranium to supply domestic and foreign utilities under existing contracts. The Administration reduced the overall operating funds of the activity by a total of $600 million for fiscal year 1980, apparently in response to some contract cancellations and anticipated future cancellations or cutbacks in contract requirements. The industry has expressed serious concern that the cutback, in fact, will reduce the pre-produced stockpile below the minimum acceptable level for meeting existing contracts and providing a reserve against any contingencies or new contracts in the years ahead. Also, these cutbacks would essentially lock in the reduction of the U.S. market share internationally from the current 85 percent to between 35 and 50 percent. This locked-in reduction effectively would export contracts and capacity to developing foreign competitors. It also could seriously undercut U.S. nonproliferation objectives by reducing the direct controls on foreign nuclear fuel derived from our supply of the fuel. Finally, the Administration has informed the Committee that the original request did not reflect newly announced TVA price increases for power and the loss of options under power contracts with other suppliers, with the net result that the budget is down an additional $75 million from the intended activity level. This amendment will restore the $75 million needed for the intended activity in the budget and will support an additional $25 million to provide more assurance that existing contract commitment can be met, while some capacity for new contracts in the future is maintained.

ENRICHMENT POLICY AND PLAN (SECTION 704)

The Committee adopted in section 704 a requirement for the Secretary to prepare a statement of policy and a plan for civilian uranium enrichment services to be submitted to the President and Congress by February 1, 1980. The submission will address the need for additional enrichment capacity and the commitment of enrichment services to an International Nuclear Fuel Authority, and thereby will enable the Committee to review the full civilian enrichment services status in conjunction with any Administration recommendations under the Nuclear Nonproliferation Act and the fiscal year 1981 budget. The policy statement and plan also will document present and future policies and procedures. The requirement of an enrichment policy and plan also responds to recommendations of the General Accounting Office, industry and public interest groups in the Committee hearings. This policy and plan may fill a series of voids in policy, primarily because of numerous pending decisions, identified in the Committee's questions for the record. It is apparent that the Congress, the Administration, domestic and foreign customers, and other interested parties will benefit from a clear definition of current policies and plans for our civilian uranium enrichment program. A similar amendment was adopted in S. 2692 last year.

ENRICHMENT PRICING (SECTION 705)

The Committee adopted an amendment to the Atomic Energy Act, subsection 161(v), to require DOE to use a more formalized administrative procedure for setting future prices for uranium enrichment services. The procedures require prior notification, a public hearing, and the opportunity for public comment before the price is made final. Also, the amendment provides for judicial review using the appropriate procedures of the Administrative Procedures Act.

The Committee last year considered and rejected the Administration proposed change in uranium enrichment pricing policy in Title VI of S. 2692, as introduced, from the current full cost recovery method to the "fair value pricing" method using inputed commercial costs. Additionally, the Committee considered last year, but deferred to the Floor, action on an amendment to the Atomic Energy Act requiring a formal agency hearing on the record, with appropriate procedures from the Administrative Procedures Act, for any future increase in uranium enrichment prices under the full cost recovery method. The Committee also expressed its intent that the Department should not attempt to increase prices, under the existing method and procedures, above the fully justifiable cost recovery level to achieve higher revenues, towards those under the rejected fair value pricing method. The Department should insure that any increase in the prices for enrichment services is completely in accord with current policies for the full cost recovery method. The amendment adopted this year will insure that the Committee's intent is implemented.

URANIUM ENRICHMENT ACTIVITIES

OTHER DEPARTMENTAL ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Author-ization	Budget authority	Budget outlay	Author-ization	Budget authority	Author-ization	Budget authority	Budget outlay
Gaseous diffusion	896,632	848,021	680,683	680,683	679,083	100,000	100,00	780,683	780,683	779,083
Gas centrifuge	3,600	3,350	6,200	6,200	6,000			6,200	6,200	6,000
Program direction	2,275	2,413	2,566	2,566	2,566			2,566	2,566	2,566
Subtotal, operating	902,507	853,784	689,449	689,449	687,649	100,000	100,000	789,449	789,449	787,649
Subtotal, capital equipment	17,000	16,000	18,400	18,400	17,600			18,400	18,400	17,600
Subtotal, plant	300,500	425,461	323,200	436,175	326,500			323,200	436,175	326,500
Total, uranium enrichment activities	1,220,007	1,295,245	1,031,049	1,144,024	1,031,749	100,000	100,000	1,131,049	1,244,024	1,131 749

URANIUM ENRICHMENT ACTIVITIES

OTHER DEPARTMENTAL ACTIVITIES—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation: Increase (+), decrease (−)		Committee recommendation: Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
	GASEOUS DIFFUSION OPERATIONS AND SUPPORT											
80-UE-1	Control of gaseous effluents, gaseous diffusion plants	7,000	0	0	7,000	2,300	1,400			7,000	2,300	1,400
80-UE-2	Control of water pollution, gaseous diffusion plants	17,000	0	0	17,000	7,500	1,300			17,000	7,500	1,300
80-UE-3	Plant facilities security improvements, gaseous diffusion plants	17,000	0	0	17,000	4,500	2,800			17,000	4,500	2,800
80-UE-4	Power recovery demonstration cells, gaseous diffusion plants	10,500	0	0	10,500	3,500	2,200			10,500	3,500	2,200
80-UE-5	Motor and switchgear upgrading, gaseous diffusion plants	28,500	0	0	28,500	7,900	2,100			28,500	7,900	2,100
80-UE-6	UF6 Tails cylinders and storage yards, gaseous diffusion plants	7,000	0	0	7,000	7,000	3,000			7,000	7,000	3,000
80-GPP-1	General plant projects	16,200	0	0	16,200	16,200	3,200			16,200	16,200	3,200
76-8-g	Enriched uranium production facilities, Portsmouth, Ohio	802,630	512,630	479,955	220,000	322,675	200,000			220,000	322,675	200,000
71-1-f	Process equipment modifications, gaseous diffusion plants	990,000	990,000	905,400	0	64,600	110,500			0	64,600	110,500
	Total, uranium enrichment activities	0	1,529,630	1,468,355	323,200	436,175	326,500			323,200	436,175	326,500

COMMERCIAL WASTE MANAGEMENT (SECTION 706)

General

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $199,449,000 for commercial waste management programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $202,749,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

ENVIRONMENT AND ENERGY TECHNOLOGY FACILITY (SECTION 707(b))

Committee Action: The Committee adopted an amendment adding $5.3 million to the Nuclear Commercial Waste program for Nuclear Waste Transportation. The Administration budget does not include any reasonable support for civilian nuclear waste transportation in DOE. Without a concerted analysis and technology effort in DOE, the only Federal Government programs in this increasingly important area would be the regulatory activities in the Department of Transportation and the Nuclear Regulatory Commission. Centers of expertise in nuclear waste transportation, including the Sandia Laboratories, exist among DoE contractors and they should be focused programmatically on relevant analysis and technology development.

The Committee recommends a plant and capital equipment project, Project 80–ES–24, Environment and Energy Technology Facility, Richland, Washington. The Committee decided to provide a full authorization of $18 million and a fiscal year 1980 budget authority of $2.5 million.

COMMERCIAL WASTE MANAGEMENT

OTHER DEPARTMENTAL ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Commercial waste management	153, 419	147, 179	182, 349	182, 349	176, 449	5, 300	5, 300	187, 649	187, 649	181, 449
Subtotal, operating	153, 419	147, 179	182, 349	182, 349	176, 449	5, 300	5, 300	187, 649	187, 649	181, 449
Subtotal, capital equipment	10, 250	5, 960	11, 800	11, 800	9, 900			11, 800	11, 800	9, 900
Subtotal, plant	0	0	5, 300	5, 300	2, 100			5, 300	5, 300	2, 100
Total, commercial waste management	163, 669	153, 139	199, 449	199, 449	188, 449			204, 749	204, 749	173, 949

COMMERCIAL WASTE MANAGEMENT

OTHER DEPARTMENTAL ACTIVITIES—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-ES-7	Plant operation maintenance facility Richland Wash	2,000	0	0	2,000	2,000	500			2,000	2,000	500
80-GPP-1	General plant projects	3,300	0	0	3,300	3,300	1,600			3,300	3,300	1,600
	Total commercial waste management		0	0	5,300	5,300	2,100			5,300	5,300	2,100

DEPARTMENTAL ADMINISTRATIVE ACTIVITIES (SECTION 709)

Within the Department of Energy are a number of program activities which cannot readily be assigned to the individual program areas covered elsewhere. For the purpose of annual authorization legislation these activities, which are consolidated under Departmental Administrative Activities (Section 707), are as follows:

POLICY ANALYSIS AND SYSTEMS STUDIES (SECTION 709(a))

General

The Assistant Secretary for Policy and Evaluation formulates and recommends the Department's overall policy direction and coordinates the analysis and evaluation of policies and programs. The Assistant Secretary is responsible for ensuring that Department policies and programs promote competition in the energy industries and that consumer impact is considered in Department decisionmaking.

The President's proposed budget for fiscal year 1980 requests an authorization of $16,500,000 to support an appropriation of $18,500,000 for policy analysis and system studies, including $2 million pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-619) to fund the two NEA mandated studies of "National Coal Policy" and "Coal Industry Performance and Competition". (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee recommends continuation of the current authorization for policy analysis and system studies at the current fiscal year 1979 appropriation level of $12,500,000. In addition, the Committee recommends that the two NEA mandated studies be funded at $2,000,000 each for fiscal year 1980 so that the studies can be completed consistent with the time schedule provided for by law. The Committee action thus would decrease the requested authorization in S. 688 by $4 million, with an accompanying reduction of only $2 million in budget authority.

The Committee is concerned about the continuing use of contractors to perform those policy analyses and system studies on which basic Departmental-wide policies regarding programs and budgets are formulated. The Committee's action thus is intended to encourage and foster greater in-house effort in this area.

MANAGEMENT AND SUPPORT (SECTION 709(b))

General

The management and support program includes the personnel and associated funding resources of the Office of the Secretary, Headquarters staff organizations, multi-program operations offices and regional representative organizations supporting the Department's diverse complex energy programs. Support services and capital equipment expenses are included for the entire Headquarters with the exception of the Federal Energy Regulatory Commission, Office of Hearings and Appeals, and the Economic Regulatory and Energy Information Administrations. The table shows the allocation of positions and funding by organization.

DEPARTMENTAL ADMINISTRATION—POLICY AND MANAGEMENT

MANAGEMENT AND SUPPORT POSITION AND FUNDING TARGETS

[Dollar amounts in thousands]

Organization	Fiscal year 1979			Fiscal year 1980		
	FTP authorization, end year (number)	Other authorization, end year (number)	Program administration	FTP authorization, end year (number)	Other authorization, end year (number)	Program administration
Office of the Secretary	85	4	$2,338	85	4	$2,896
General Counsel	361	10	11,770	361	10	13,311
Inspector General	100	1	3,746	100	1	4,165
Equal Opportunity	35	7	1,104	35	7	1,347
Board of Contract Appeals	5	1	223	5	1	225
Administration [1]	675	69	19,057	675	69	19,443
Management	218	21	7,089	222	21	7,890
Controller	305	18	9,106	299	18	9,606
International Affairs	131	14	5,915	131	14	5,248
Policy and Evaluation	190	8	6,808	176	8	6,882
Institutional and Intergovernmental Relations	292	17	9,864	263	17	10,118
Subtotal, headquarters	2,397	170	77,020	2,352	170	81,129
Operations offices	1,816	171	57,508	1,806	171	61,467
Regional counsels	119		3,578	119		4,117
Regional representatives	264	26	6,775	157	26	7,079
Power marketing administration coordination	15		467	15		510
Grand total	4,611	367	145,348	4,449	367	154,302
Adjustment [2]			−8,457			0
Total			136,891			154,302

[1] Includes one position for the Office of Minority Economic Impact.

[2] Difference in fiscal year 1979 budget authority and budget outlay resulting from the personal services and benefits programing source of prior year unobligated carryover.

Support Services

Support services covers administrative requirements for operations at the Headquarters (excluding ERA, FERC, EIA, and Hearings and Appeals) and multi-program operations offices and regional representative organizations in the field. The budget authority of $86,906,000 in fiscal year 1980 reflects a continuation of the fiscal year 1979 level of effort with an allowance for inflation. The estimates provide for communication services, rents and utilities, printing and reproduction, transportation of things, supplies and materials, and other essential administrative expenses necessary to support programmatic efforts. The following table provides a functional profile of support services:

	Estimate, fiscal year 1980
Transportation of things	$538
Communication services	17,386
Rents and utilities	18,662
Printing and reproduction	6,625
Other services	35,335
Supplies and materials	8,360
Total	86,906

In summary, the President's proposed budget for fiscal year 1980 requests an authorization of $241,208,000 to support an appropriation of $244,208,000 for management and support programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

Committee Action: The Committee recommends an authorization of $238,266,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Salaries and Expenses

For fiscal year 1980 the proposed budget would allocate 4,499 full time personnel positions to management and support.

Committee Action: The Committee paid particular concern to the allocation of personnel amongst the various programs of the Department of Energy. The Committee recommends that there be a greater statutory assignment of personnel to organizational units as well as a greater transfer of personnel positions to program areas from this general category of management and support. In this regard the Committee will conduct a continuing review of the allocation of personnel within the Department.

Consistent with this policy the Committee recommends a reduction in the proposed budget for general management and support programs equal to the Committee's recommended personnel increases within various program areas and organizational units. The recommended decrease is $4,959,000 for full time positions within management and support.

DEPARTMENTAL ADMINISTRATION—POLICY AND MANAGEMENT

MANAGEMENT AND SUPPORT

[In thousands of dollars]

	Fiscal year 1979 estimated budget authority	Fiscal year 1980 requested budget authority
Salaries and expenses: Operating expenses	[1] 131,981	148,990
Travel: Operating expenses	4,910	5,312
Support services: Operating expenses	[2] 86,380	86,906
Loans: Operating expenses		3,000
Capital equipment	3,305	4,305
Total, management and support	226,576	248,513

[1] The fiscal year 1979 budget authority includes $7,606,000 for the effect of the October 1978 pay raise.

[2] The fiscal year 1979 budget authority includes $21,500,000 for the support services supplemental.

Inspector General (Section 709(b)(3))

The responsibilities of the Office of the Inspector General are to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud or abuse in programs and operations of the Department. A major effort is underway to identify those problem areas where audits, investigations and inspections seem likely to yield the highest payoff in cost-benefit terms.

Committee Action: The Committee recommends an increase of $2,017,000 in the authorization for the Office of Inspector General for fiscal year 1980 to a level of $6,182,000. This will permit staffing of the fiscal year 1980 ceiling proposed in the President's budget. The ceiling recommended by the Committee should, based on information received from the Inspector General, permit the Office to carry out the aggressive program of audits and investigations contemplated by the Congress when it established the Office. (A letter describing the need for increased funds from the Inspector General to Senator J. Bennett Johnston is printed among the Executive Communications.)

INTERNATIONAL AFFAIRS (SECTION 709(c))

The Office of International Affairs formulates the Department's international energy policy, represents the Department in intergovernmental and international energy discussions and negotiations, and assures that United States international energy policy is consistent with its domestic energy objectives.

Committee Action: The Committee recommends an addition to the DOE International Affairs budget of $200,000 to prepare a comprehensive plan for designing a program for energy technologies specifically oriented to the needs of developing countries. The plan is to be prepared in cooperation with the Agency for International Development, the Department of State, and other appropriate Federal agencies.

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS (SECTION 707(d))

General

The Assistant Secretary is responsible for developing, managing and/or assuring coordination of departmental relations with external organizations and entities including: the Congress, news media, National, State, regional and local governmental bodies and their national associations, other Federal agencies, consumer and citizen organizations and others. This includes responsibility for: assuring effective coordination of activities which significantly impact such external organizations, monitoring events, and interests outside the Department which could affect policies and programs.

The President's proposed budget for fiscal year 1980 requests an authorization and appropriation of $35,906,000 for Intergovernmental and Institutional Relations programs. (See the appropriate table for the breakdown between operating expenses, capital equipment not related to construction and construction (plant and capital equipment).)

The Committee recommends an authorization of $36,815,000 for fiscal year 1980. A description of the Committee's recommended changes in the proposed budget follows:

Committee Action: The Committee adopted two amendments dealing with the DOE payment in lieu of taxes (PILT) program for Los Alamos, New Mexico. The first amendment added $908,590 to the Intergovernmental Relations program to support PILT for Los Alamos in fiscal year 1980.

The second amendment (section 710) establishes a permanent law formula for PILT assistance to Los Alamos in future fiscal years after 1980. The two amendments will insure equitable treatment for Los Alamos under the PILT program, in light of the continued significance of the Los Angeles Scientific Laboratory to the local community. The amendment adopted by the Committee is intended to adopt alternative number 2 set forth in the Report of the DOE Working Group on Community Assistance.

DEPARTMENTAL ADMINISTRATION—CONSTRUCTION (SECTION 710)

Environment and Energy Technology Facility

This amendment authorizes the construction of the Environment and Energy Technology Facility to house scientific personnel working on several DOE programs at Richland, Washington. The scientific personnel are currently housed in temporary and rented space which is widely scattered. The building will provide laboratory space, office space, and space for shops and other supportive facilities. Since the building will house people who are already employed by DOE contractor, it does not represent a commitment to an increase in the contractors manpower.

DEPARTMENTAL ADMINISTRATION

OTHER DEPARTMENTAL ACTIVITIES—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Policy analysis and systems studies	14,576	14,576	16,500	16,500	8,500	−4,000	−2,000	12,500	16,500	16,500
International affairs:										
International cooperation in nonnuclear technologies	3,000	2,500	2,000	2,000	2,000			,000	2,000	2,000
International policy studies	1,150	1,145	1,500	1,500	1,500	200	200	1,700	1,700	1,700
Total, international affairs	4,150	3,645	3,500	3,500	3,500	200	200	3,700	3,700	3,700
Management and support	219,525	268,286	237,043	240,043	240,043	−4,959	−4,959	232,084	235,084	235,084
Office of Inspector General	3,746	3,746	4,165	4,165	4,165	2,017	2,017	6,182	6,812	6,182

DEPARTMENTAL ADMINISTRATION—Continued

OTHER DEPARTMENTAL ACTIVITIES—OPERATING EXPENSES—Continued

	Fiscal year 1979 estimate		Fiscal year 1980 President's budget			Committee recommendation				
						Increase (+), decrease (−)		Total		
	Budget authority	Budget outlay	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
Intergovernmental and institutional relations:										
Technical information services	9,588	9,588	10,574	10,574	10,574			10,574	10,574	10,574
Education, business, industry, and labor affairs	10,590	10,590	11,870	11,870	11,870			11,870	11,870	11,870
Intergovernmental relations	9,079	9,079	9,172	9,172	9,172	909	909	10,081	10,081	10,081
Public affairs	2,460	2,460	2,290	2,290	2,290			2,290	2,290	2,290
Indian affairs	0	0	1,000	1,000	500			1,000	1,000	500
Consumer affairs	650	650	1,000	1,000	1,000			1,000	1,000	1,000
Total, intergovernmental and institutional relations	32,367	32,367	35,906	35,906	35,406	909	909	36,815	36,815	36,315
In-house energy management	3,600	1,100	3,600	3,600	6,100			3,600	3,600	6,100
Security investigations	14,660	14,560	16,400	16,400	16,400			16,400	16,400	16,400
Miscellaneous:										
Cost of work for others	22,600	21,400	24,994	24,994	24,994			24,994	24,994	24,994
Changes in inventories, working capital	10,000	25,038	19,260	19,260	19,760			19,260	19,260	19,760
Total, miscellaneous	32,600	46,438	44,254	44,254	44,754			44,254	44,254	44,754
Subtotal, operating	325,224	384,718	361,368	366,368	368,868	−5,833	−3,833	355,535	362,535	365,035
Subtotal, capital equipment	4,205	5,210	4,815	4,815	4,815			4,815	4,815	4,815
Subtotal, plant	0	0	46,400	46,400	17,320	18,00	2,500	64,400	48,900	17,820
Total, departmental administration	329,429	389,928	412,583	417,583	391,003	12,167	−1,333	424,750	416,250	387,670

DEPARTMENTAL ADMINISTRATION

OTHER DEPARTMENTAL ACTIVITIES—CONSTRUCTION

[In thousands of dollars]

			Prior years		Fiscal year 1980			Committee recommendation				
								Increase (+), decrease (−)		Total		
		TEC	Authorization	Budget authority	Authorization	Budget authority	Budget outlay	Authorization	Budget authority	Authorization	Budget authority	Budget outlay
80-DA-1	Modifications for energy management, various locations	19,700	0	0	19,700	19,700	12,020			19,700	19,700	12,020
80-DA-2	Automated energy management system, Argonne National Laboratory, Illinois	4,500	0	0	4,500	4,500	900			4,500	4,500	900
80-DA-3	Process waste heat utilitilies, Portsmouth Gaseous diffusion plant, Ohio	4,200	0	0	4,200	4,200	900			4,200	4,200	900
80-DA-4	Automated energy management system, Pantex plant, Amarillo, Tex	4,000	0	0	4,000	4,000	500			4,000	4,000	500
80-DA-5	Conversion of boiler No. 5 to high sulfur coal firing, Argonne National Laboratory, Illinois	5,000	0	0	5,000	5,000	1,000			5,000	5,000	1,000
80-ES-24	Environment and Energy Technology Facility Richland, Washington	9,000	0	0	0	0	0	18,000	2,500	18,000	2,500	500
80-PE&D-1	Plant engineering and design, various locations	9,000	0	0	9,000	9,000	2,000			9,000	9,000	2,000
	Total, departmental administration	0	0	0	46,400	46,400	17,320	18,000	2,500	64,400	48,900	17,820

GENERAL PROVISIONS (TITLE VIII)

General

As proposed by the Administration, Title VIII of S. 688 sets forth general provisions, such as reprogramming authority, applicable to Fiscal Year 1980 authorizations.

PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

General

As proposed by the Administration, Title VIII of S. 688 sets forth general provisions, such as reprogramming authority, applicable to Fiscal Year 1980 authorizations, and repeals currently applicable provisions of Public Law 95–238.

Committee Action: The Committee recommends that the provisions of S. 2692 approved earlier by the Committee be adopted along with the appropriate technical changes (1) as proposed by the Administration in S. 688 and (2) as necessary to reflect other policies approved by the Committee.

The Committee amendment would apply reprogramming controls to any program, category, function (including capital equipment not related to construction) or other activity for which a specific amount of funds are authorized to be appropriated by separate item in an annual authorization act. The effect would be to limit the Department's—

(a) funds appropriated for "Operating expenses" for the construction or operation of equipment without notifying the appropriate Congressional committees and waiting 30 days;

(b) not to exceed 1 percent of the funds appropriated for "Operating expenses", for the construction, expansion or modification of laboratories or other facilities without Congressional notification and a 30-day waiting period:

(c) any fund expenditures in excess of actually authorized amounts or for non-authorized programs without Congressional notification and a 30-day waiting period; and

(d) any appropriate funds, as a result of reprogramming, may not be reduced by greater than 10 percent without similar Congressional notification and 30-day waiting period.

The Committee amendment would clarify the circumstances under which the Department of Energy may retain and use uranium enrichment revenues by requiring that uranium enrichment revenues retained by the Department be offset against the costs of uranium enrichment services, including current operating expenses and capital equipment and construction. In addition, the Committee amendment provides that receipts from power marketing and naval petroleum reserve activities shall be disposed of in accordance with the laws pertaining to such activities.

International Agreements: The Committee approved an amendment n Section 812 to provide the Secretary discretionary authority in implementing an international agreement relating to research, development or demonstration, to limit the award of procurement contracts, rants and cooperative agreements (under such international agreement) to the domestic agent or organizations of the nations or groups of ations funding the activities under such international agreement This mendment is intended to facilitate action by the Secretary to restrict ompetitors in procurement contracts, grants and cooperative agreements to those from the signator nations funding the activities under uch international agreement. This provision is not intended to permit he Secretary to circumvent otherwise applicable procurement statutes, regulations or policies, to effectuate sole-source procurement. (A etter from the Department of Energy describing this amendment is rinted among the Executive Communications elsewhere in this eport.)

Miscellaneous Provisions (Title IX)

NAVAL PETROLEUM RESERVE IN ALASKA

Committee Action: The Committee in section 901 adopted an amendment to authorize $240 million to be appropriated in Fiscal Year 1980 to the Interior Department to complete the exploration program for the National Petroleum Reserve, Alaska (NPRA) and directed the Secretary to complete the full program under the Naval Petroleum Reserves Production Act of 1976. The Committee's action constitutes a rejection of the Administration's fiscal year 1980 budget proposal to terminate the program in fiscal year 1979 and to make required analyses, conclusions and recommendations on the basis of data available from the program only through Fiscal Year 1979. While the President announced in his April 5, 1979 energy message an intent to consider leasing of NPRA lands to private industry for further exploration after receipt of an evaluation by the Department of the Interior, it is the Committee's view that the full exploration program must be completed and completed expeditiously to provide an informed basis for Administration recommendations and Congressional actions on NPRA leasing, exploration and development. The exploratory program through Fiscal Year 1979 provides incomplete data for making such decisions, because areas of significant potential have been insufficiently covered in the program to fully assess the hydrocarbon potential of NPRA. Premature completion of the exploratory program with conclusions and recommendations based on the incomplete program, as proposed by the Administration, could and probably would lead to ill-founded decisions on leasing and future development of NPRA. It is the Committee's intent that the Secretary of the Interior pursue diligently the completion of the full exploratory program without further delay.

IV. LEGISLATIVE HISTORY

By request on March 15, 1979, S. 688 was introduced by Senator Jackson and referred to the Committee on Energy and Natural Resources. In its consideration of the Committee's proposed budget for the civilian programs of the Department of Energy for fiscal year 1980, hearings were held by the Full Committee and the four subcommittees with jurisdiction over the programs set forth in S. 688. For a total of 18 days, the Full Committee held 1 day of hearings; the Subcommittee on Energy Conversation and Supply, 6 days; the Subcommittee on Energy Regulation, 2 days; the Subcommittee on Energy Research and Development, 8 days; and the Subcommittee on Energy Resources and Materials Production, 1 day.

The Committee on Energy and Natural Resources, in open business session, began consideration of S. 688 on May 2, 1979. The Committee held 7 markup sessions on S. 688 authorizing for fiscal year 1980 the civilian programs of the Department of Energy. By unanimous vote of a quorum present, on June 7, 1979, the Committee reported S. 688 with an amendment in the nature of a substitute and recommended that the Senate approve S. 688 as amended.

V. COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session began consideration of S. 688 on May 2, 1979, and by unanimous vote of a quorum present, recommended on June 7, 1979, that the Senate approve S. 688 as amended. The measure was reported by a vote of 17 to 0 as follows:

YEAS	NAYS
Jackson	
Church	
Johnston	
Bumpers	
Ford	
Durkin	
Matsunaga	
Melcher	
Tsongas [1]	
Bradley	
Hatfield [1]	
McClure	
Weicker [1]	
Domenici	
Stevens [1]	
Bellmon [1]	
Wallop	

During Committee consideration roll call votes were recorded on two amendments: First, by a vote of 10 to 7 an amendment was approved to increase the authorization for Project 78–6–e, as follows:

YEAS	NAYS
Jackson	Bumpers
Church	Durkin [1]
Johnston [1]	Metzenbaum [1]
Ford	Matsunaga
Melcher	Tsongas
McClure	Bradley [1]
Domenici	Hatfield [1]
Stevens [1]	
Bellmon	
Wallop [1]	

Second, by a vote of 10 to 8 the amendment embodied by section 105 of the amendment in the nature of a substitute was approved, as follows:

YEAS	NAYS
Bumpers	Jackson
Ford	Church
Durkin [1]	Johnston [1]
Metzenbaum [1]	McClure
Matsunaga [1]	Domenici
Melcher	Stevens [1]
Tsongas	Bellmon
Bradley	Wallop
Hatfield	
Weicker	

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[1] Denotes voted by proxy.

VI. COMMITTEE AMENDMENTS

The Committee approved an amendment in the nature of a subtitute to S. 688 incorporating recommendations of the Committee s discussed herein.

During the consideration of S. 688 the Committee adopted several mendments to the President's proposed fiscal year 1980 budget for he civilian programs of the Department of Energy (see Background nd Need for a discussion of the Committee's amendments). Roll call otes were taken by the Committee on the three actions indicated in ection V.

During Committee consideration in addition to authorizing apropriations for the civilian programs of the Department of Energy, mendments were adopted regarding provisions applicable to annual uthorization acts, competition in crude oil sales and an amendment o the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976.

In addition, the Committee approved an authorization of $240 million for the Department of the Interior to continue the Federal xploration program for the Naval Petroleum Reserve in Alaska. These are discussed in the section of this report summarizing the bill.

The Committee also recommended against adoption of the followng provision in S. 688, as proposed by the Administration:

FISCAL YEAR 1981 AUTHORIZATION

As proposed by the Administration, S. 688 contains an authorization or fiscal year 1981 of such funds as may be necessary for programs et forth in the bill.

Committee Action: The Committee disapproved the Administraion's request for such an authorization.

VII. SECTION-BY-SECTION ANALYSIS

TITLE I.—RESEARCH AND DEVELOPMENT

Title I of S. 688 authorizes fiscal year 1980 appropriations for the energy research and development programs of the Department of Energy.

Section 101. Fossil Fuel—Operating Expenses

Section 101 authorizes fiscal year 1980 appropriations to the Department of Energy in accordance with section 660 of the Department of Energy Organization Act for operating expenses for fossil fuel research and development programs. The Committee generally has authorized appropriations at the subprogram or activity level throughout the bill. The aggregate authorizations for fossil energy operating expenses are: Coal, $656,313,000; Petroleum, $64,186,000; and Gas, $37,193,000.

Section 102. Fossil Fuel—Construction

Section 102 authorizes for fiscal year 1980 funds fossil fuel plant and capital equipment, including planning, construction, modification, acquistion or modification of facilities. It also includes increases in certain project authorizations authorized in prior years.

The projects included in Section 102 are:

(a) Coal:

(1) Project 80–FE–1, Technology Transfer Building, Bartlesville, Oklahoma, $3,000,000;

(2) Project 80–FE–2, Renovation and upgrading of Building B–1, Morgantown, West Virginia, $1,750,000;

(3) Project 80–FE–3, Program support facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,700,000;

(4) Project 80–FE–12, 150 MWe, Peat-Fueled, Electric Generating Plant, site to be determined, $3,100,000 for title I activities only.

(5) Project 80–GPP–1, General plant projects for energy technology centers, six locations, $5,600,000;

(6) Project 79–1–r, Solvent Refined Coal (SRC–II) demonstration plant, site undetermined, an additional sum of $45,000,000 for a total project authorization of $95,000,000: Provided, however, That any appropriation pursuant to this additional authorization shall be reduced by an amount equal to the contributions from foreign participants in the project;

(7) Project 78–2–c, Low-Btu fuel gas small industrial demonstration plant, Hoyt Lakes, Minnesota, an additional sum of $10,000,000, for a total project authorization of $25,000,000;

(8) Project 78–2–d, Solvent Refined Coal (SRC–I) demonstration plant, site undetermined, an additional sum of $70,000,000 for a total project authorization of $100,000,000;

(9) Project 77–1–b for a high Btu pipeline gas demonstration plant an additional sum of $7,000,000 for a total project authorization of $17,000,000;

(10) Project 77–1–c for fuel gas low Btu demonstration plant, an additional sum of $6,000,000 for a total project authorization of $11,000,000;

(11) Project 76–1–b, High-Btu synthetic pipeline gas demonstration plant, site undetermined, an additional sum of $55,000,000 for a total project authorization of $150,000,000; and

(12) Project 76–1–c, Low/Medium Btu fuel gas demonstration (A–E and long-lead procurement), an additional sum of $1,000,000 for a total project authorization of $151,000,000.

Section 103. Fossil Fuel—Capital Equipment

Section 103 authorizes fiscal year 1980 appropriations for fossil fuel capital equipment not related to construction. These funds are necessary to replace obsolete or worn-out equipment and to purchase new equipment to meet the needs of expanding programs and new technologies at DOE installations and contract facilities.

The authorizations are as follows: Coal, $3,000,000; Petroleum, $2,200,000; and Enhanced gas recovery, $400,000.

Section 104. Supply Research and Development—Operating Expenses

Section 104 authorizes fiscal year 1980 appropriations in accordance with section 660 of the Department of Energy Organization Act for supply research and development operating expenses. The aggregate authorizations are: Solar, $457,021,000; Biomass, $57,338,000; Nuclear fission, $671,074,000; Magnetic fusion, $256,058,000; Geothermal, $157,827,000; Low-head hydroelectric, $8,468,000; Environmental programs, $234,158,000; Basic research, $238,324,000; and Electric energy systems and storage, $103,931,000.

Authorized funds for the nuclear fission international spent fuel storage subprogram (section 104(c)(2)(A)) are conditioned that no official of the Federal Government may obligate any funds for the purpose of conducting any site specific activity, on the territory or possession of the United States (including the Trust Territory of the Pacific Islands and any area, not within the boundaries of the several States, over which the United States claims or exercises sovereignty) or in any State, related to the storage of foreign spent nuclear fuel, unless such official has submitted a full report by the Secretaries of Energy, of the Interior, and of State of such proposed site specific activities not less than 30 days, during which both Houses of Congress are in continuous session, with the exception of recesses of not more than three days, before any such activity commences.

Section 105. Clinch River Breeder Reactor Project

Section 105(a) repeals section 106 of Public Law 91–273, as amended, which provides the statutory authority for the Clinch River Breeder Reactor (CRBR) Project. In section 105(b) the Secretary is directed to complete only the systems design for the CRBR project and to procure and test those components which he decides to be useful for research and development activities on advanced fission technology. The prototypic sodium pump, pump drive, steam generator, secondary control rod systems and the in-vessel transfer machine are components at a minimum which the Secretary should acquire for testing.

The Secretary is directed in section 105(c) to take necessary or appropriate actions with respect to existing contractual instruments pursuant to section 106 of Public Law 91–273, as amended, to carry out this section, but this section is clearly not intended to affect, modify or prejudice any existing rights of any party, under any such contractual instrument.

In section 105(d) the Secretary is also directed to assure that generic environmental or technical issues related to the CRBR Project activities pursuant to section 105(b) are fully documented and discussed with the NRC staff. The Secretary is authorized to make modifications in any existing LMFBR facilities to test and is directed to provide for testing of components completed pursuant to section 105(b)(2).

Section 105(e) directs the Secretary to begin a conceptual design study (CDS) of a new LMFBR test plant. This design effort must include conceptual planning and studies and systems studies and designs. The CDS will include preliminary cost analyses, engineering drawings, utility interconnect studies, generic site selection analyses, and continuing consultations with the NRC staff. The CDS shall consider criteria including the ability to test alternative fuels, economic factors, safety, and the technical viability of the technology.

By section 105(f) the Secretary is directed to submit to the Congress by March 31, 1981, a final report on the CDS along with recommendations and supporting documents. His recommendations must also consider other fast breeder reactor concepts.

Section 105(g) requires the Secretary to utilize existing contract design personnel to the maximum extent practicable in work pursuant to section 105(b)(1) and (e). Section 105(h) authorizes $52 million in addition to unexpended funds appropriated for the CRBR project to accomplish the termination procedures. Section 105(i) makes this section effective on the date of enactment.

Section 106. Fusion Engineering Center

The Secretary is directed pursuant to section 106, by July 1, 1980 to submit a report to the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology, on the desirability of creating a national magnetic confinement fusion reactor engineering center for the purpose of accelerating fusion technology development via the concentraton and coordination of major magnetic confinement fusion devices and associated activities at such a national center. The relevant factors to be considered by the Secretary are set forth in subsection (b).

Section 107. Advanced Converter Reactor

The President is directed pursuant to section 107, by March 31, 1981 to submit to the Congress an advanced converter reactor commercialization strategy.

Section 108. Supply Research and Development—Construction

Section 108 authorizes fiscal year 1980 funds for energy research and development plant and capital equipment. In addition, increases are included for certain projects authorizations authorized in previous years. The projects included in section 108 are:

(a) Solar:

(1) Project 80–ES–1, Wind Energy Systems Test Center Building, Rockwell International, Rocky Flats, Colorado, $2,140-000;

(2) Project 79–1–q, Solar Energy Research Institute facility, Golden, Colorado, an additional sum of $27,000,000 for a total project authorization of $30,000,000; and

(3) Project 76–2–b, Ten megawatt central receiver solar thermal powerplant, Barstow, California, an additional sum of $36,500,000 for a total project authorization of $111,750,000;

(b) Nuclear Fission:

(1) Converter:

(A) Project 80–GPP–1, General plant projects, various locations, $800,000;

(2) Breeder:

(A) Project 80–ES–3, Physical security and safeguards project, test reactor area, Idaho National Engineering Laboratory, Idaho $1,200,000;

(B) Project 80–ES–4, Laundry decontamination facility, Idaho National Engineering Laboratory, Idaho, $2,200,000;

(C) Project 80–ES–5, Modifications to reactors, various locations, $2,800,000;

(D) Project 80–ES–6, Boilers, heating and ventilating, and fuel tank and roof replacement, Idaho National Engineering Laboratory, Idaho, $1,900,000;

(E) Project 80–ES–11, Idaho Laboratory facility, phases I and II, Idaho National Engineering Laboratory, Idaho, $22,000,000;

(F) Project 80–GPP–1, General plant projects, $12,300,000;

(G) Project 78–6–c, Safety research experimental facility. Idaho National Engineering Laboratory, Idaho, an additional sum of $100,600,000 for a total project authorization of $129,700,000;

(H) Project 78–6–e, Energy technology center facility modifications, Energy Technology Engineering Center, Santa Susanna, California, an additional sum of $5,500,000 for a total project authorization of $13,500,000; and

(I) Project 78–6–f, Fuels and materials examination facility, Richland, Washington, an additional sum of $30,200,-000 for a total project authorization of $170,000,000;

(c) Magnetic Fusion:

(1) Project 80–GPP–1, General plant projects, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $1,400,000;

(2) Project 80–GPP–1, General plant projects, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(3) Project 80–MF–5, MIT Plasma Fusion Center modifications, $4,600,000; and

(4) Project 78–3–b, Fusion materials irradiation test facility, Richland, Washington, an additional sum of $67,850,000 for a total project authorization of $82,250,000;

(d) Environmental Programs:

(1) Project 80–ES–8, Modifications and additions to biomedical and environmental research facilities, various locations, $,500,000; and

(2) Project 80–GPP–1, General plant projects, $2,500,000; and

(e) Basic Research:

(1) Project 80–ES–9, Intense Pulsed Neutron Source–I (IPNS–I), expanded experimental capabilities, Argonne National Laboratories, Argonne, Illinois, $2,400,000;

(2) Project 80–ES–10, Chemical and materials sciences laboratory, Lawrence Berkeley Laboratory, Berkeley, California, $12,600,000; and

(3) Project 80–GPP–1, General plant projects, various locations, $250,000.

Section 109. Supply Research and Development—Capital Equipment

Section 109 authorizes fiscal year 1980 appropriations for supply research and development capital equipment not related to construction as follows: Solar, $15,400,000; Nuclear Fission, $43,021,000; Magnetic Fusion, $29,800,000; Geothermal, $3,700,000; Environmental, $14,500,000; Basic Research $14,550,000; and Electric Energy Systems and Storage, $2,960,000.

Section 110. Conservation Research and Development—Operating Expenses

Section 110 authorizes fiscal year 1980 appropriations for conservation research and development operating expenses. The aggregate program authorizations are as follows: Buildings and Community Systems, $98,200,000; Industrial $44,758,000; Transportation, $114,261,000; and Multi-sector, $5,200,000.

Section 111. Conservation—Construction

Section 111 authorizes fiscal year 1980 appropriations for conservation research and development plant and capital equipment as follows: Project 80–C–1, coal to acetylene demonstration project $15,100,000.

Section 112. Conservation Research and Development—Capital Equipment

Section 112 authorizes fiscal year 1980 appropriations for conservation research and development capital equipment not related to construction as follows: Building and Community Systems, $1,000,000; Industrial, $500,000; and Transportation, $1,100,000.

Section 113. General Science and Research—Operating Expenses

Section 113 authorizes fiscal year 1980 appropriations for general science and research operating expenses. The aggregate program authorizations are as follows: Life Sciences Research and Biomedical Applications, $40,737,000; High Energy Physics, $215,133,000; and Nuclear Physics, $81,768,000, of which $1,000,000 shall be used to fund the University Reactor Sharing program.

Section 114. General Science and Research—Construction

Section 114 authorizes fiscal year 1980 appropriations for general science and research plant and capital equipment. In addition increases are included for certain project authorizations authorized in previous years. The projects included in section 114 are as follows:

(a) High Energy Physics:

(1) Project 80–GS–1, Accelerator improvements and modifications, various locations, $6,000,000;

(2) Project 80–GPP–1, General plant projects, various locations, $5,000,000;

(3) Project 79–9–b, Energy saver, Fermi National Accelerator Laboratory, Batavia, Illinois, an additional sum of $26,900,000 for a total project authorization of $38,900,000; and

(4) Project 78–10–b, Intersecting storage accelerator (ISA BELLE) 400x400 GeV, Brookhaven National Laboratory, Upton, New York, an additional sum of $241,500,000 for a total project authorization of $275,000,000; and

(b) Nuclear Physics:

(1) Project 80–GS–2, Bates Linear Accelerator Beam Recirculator Project, Middleton, Massachusetts, $1,800,000;

(2) Project 80–GS–3, Experimental support addition, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $2,400,000;

(3) Project 80–GS–4, Accelerator improvements and modifications, various locations, $1,600,000;

(4) Project 80–GS–5, National Superconducting Cyclotron Laboratory, Michigan State University, East Lansing, Michigan (A–E and long-lead procurement only), $6,000,000; and

(5) Project 80–GPP–1, General plant projects, various locations, $3,000,000.

Section 115. General Science and Research—Capital Equipment

Section 115 authorizes fiscal year 1980 appropriations for general science and research capital equipment not related to construction, as follows: Life Sciences Research and Biomedical Applications, $1,500,000; High Energy Physics, $36,000,000; and Nuclear Physics $8,200,000.

Section 116. Uranium Enrichment Process Development—Operating Expenses

Section 116 authorizes fiscal year 1980 appropriations for uranium enrichment process development operating expenses in the aggregate amount of $77,400,000.

Section 117. Uranium Enrichment Process Development—Construction

Section 117 authorizes fiscal year 1980 appropriations for uranium enrichment process development plant and capital equipment, as follows: Project 79–2–d, Technology test facilities, various locations, an additional sum of $13,000,000 for a total project authorization of $20,000,000.

Section 118. Uranium Enrichment Process Development—Capital Equipment

Section 118 authorizes fiscal year 1980 appropriation for uranium enrichment process development acquisition and fabrication of capital equipment not related to construction, in the amount of $5,030,000.

Section 119. Geothermal Resources Development Fund—Operating Expenses

Section 119 authorizes fiscal year 1980 appropriations for operating expenses of the Geothermal Resources Development Fund in the amount of $288,000.

TITLE II.—REGULATION AND INFORMATION AND OTHER ACTIVITIES

Section 201. Economic Regulatory Administration

Section 201 authorizes fiscal year 1980 appropriations for operating expenses for the Economic Regulatory Administration in the amount of $135,646,000, as follows: Coal Utilization, $20,333,000; Utility Programs and Regulatory Intervention, $9,694,000; Compliance, $60,428,000; Regulation Development, $5,266,000; Fuels Regulation, $5,166,000; Emergency Preparedness, $32,600,000; and Program Direction, $2,159,000.

Section 202. Office of Hearings and Appeals

Section 202 authorizes fiscal year 1980 appropriations for operating expenses for the Office of Hearings and Appeals in the amount of $5,942,000.

Section 203. Federal Energy Regulatory Commission

Section 203 authorizes fiscal year 1980 appropriations for operating expenses for the Federal Energy Regulatory Commission, in the amount of $73,187,000, as follows: Oil Regulation, $4,973,000; Gas Regulation, $41,365,000; Hydro Regulation, $12,520,000; and Multi-resource Regulation, $14,329,000.

Section 204. Energy Information Administration

Section 204 authorizes fiscal year 1980 authorization appropriations for operating expenses for the Energy Information Administration, in the amount of $85,657,000, as follows: Energy Applied Analysis, $13,871,000; Collection, Production and Dissemination, $44,056,000; Data Validation, $15,884;000 and Data Information Service, $11,846,000.

Section 205. Strategic Petroleum Reserve

Section 205 authorizes fiscal year appropriations for operating expenses for the strategic petroleum reserves program in the amount of $8,391,000.

Section 206

Section 206 amends section 157(a) of the Energy Policy and Conservation Act to require the Department of Energy as a part of the strategic petroleum reserve, to establish regional and noncontiguous petroleum product storage facilities.

Section 207

The Secretary is required under section 207, thirty days prior to recommending the purchase of crude oil or petroleum products for storage in the strategic petroleum reserve, to submit to the Congress a report discussing the various oil acquisition strategies for the Strategic Petroleum Reserve.

Section 208. Competition in Crude Oil Sales

The Secretary is directed in section 208, within sixty days after enactment, to review and modify the crude oil supplier/purchaser regulation (10 CFR 211.63) and the rulings and interpretations thereof to remove those provisions of the relationship between suppliers and purchasers of crude oil, which restrict competition, unless and to the extent he finds such provisions are necessary to provide an adequate supply of crude oil to small refiners.

TITLE III.—COMMERCIALIZATION AND RELATED ACTIVITIES

Section 301. Fossil Energy

Section 301 authorizes fiscal year 1980 appropriations for operating expenses for the following fossil energy commercialization and related activities programs in the amount of $22,295,000: Coal Utilization and Supply, $4,500,000; Shale Oil Development Program, $10,500,000; Oil and Gas Development Projects, $3,000,000; and Program Direction, $4,295,000.

Section 302. Renewable Resources

Section 302 authorizes fiscal year 1980 appropriations for operating expenses for the following renewable resources commercialization and related activities programs in the amount of $41,479,000 as follows: Solar Commercial Planning, $13,000,000; Market Development and Training, $27,000,000; and Program Direction, $1,479,000.

Section 303. Conservation—Operating Expenses

Section 303 authorizes fiscal year 1980 appropriations for operating expenses for the following conservation commercialization and related activities programs in the following aggregate amounts: Buildings and Community Systems, $13,562,000; Industrial, $12,509,000; Transportation, $3,062,000; and State and Local, $13,783,000.

Section 304. Multiresources

Section 304 authorizes fiscal year 1980 appropriations for operating expenses for multiresources commercialization and related activities program in the amount of $103,000,000.

Section 304(a) Alternative fuels loan guarantee program: The Secretary is authorized to guarantee and to make commitments to guarantee loans up to $900,000,000, for the purpose of demonstrating high Btu coal gasification; in support thereof, $8,000,000 are authorized for administrative expenses and $90,000,000 for the payments of interest and principal and the payment of interest differentials and redemption of debt, into the revolving fund pursuant to section 19(n) of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.). The Congress also finds that all the requirements of subsection 19(m) of such Act have been satisfied for this authorization of guarantees and commitments to guarantee loans pursuant to section 19 for the purpose of demonstrating high-Btu coal gasification.

Section 304(b) authorizes $5,000,000 for the municipal waste loan guarantee program pursuant to section 19(y) of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

Section 305. Small Community Hydroelectric Assistance Program

Section 305 amends the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) by adding a new section 409, which authorizes a small community hydroelectric assistance program. Small hydroelectric power projects are defined in subsection (o) as any new hydroelectric project, with or without a dam impoundment structure, which has not more than 25,000 kilowatts of installed capacity.

Subsection (a) authorizes the Secretary of Energy, after consultations with the Secretary of Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principle balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any State or local government, or agency thereof, for the purpose of financing the project costs of small hydroelectric power projects.

Subsection (b) restricts the total outstanding indebtedness to $300,000,000.

Subsection (c) and (d) set forth the conditions for such guarantees or commitment to guarantee.

Subsection (d) pledges the full faith and credit of the United States is to the payment of all guarantees issued under this section with respect to principal and interest.

Subsection (e) provides that except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Subsection (e) also provides that (1) such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms and (2) subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

Subsection (f) sets forth the rights and procedures in the event of default by the borrower.

Subsection (g) sets forth the findings that must be made for the Secretary, with respect to any obligation guaranteed under this section, to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation.

Subsection (h) requires that regulations be promulgated within 90 days of enactment.

Subsection (i) directs the Secretary to charge and collect fees for guarantees of obligations authorized by this section.

Subsection (j) provides that nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

Subsection (k) provides for establishment within the Treasury of a separate revolving fund for the purpose of this program.

Subsection (m) provides that feasibility studies assistance proposed for assistance under this section also may receive assistance under section 402.

Subsection (n) provides for simplified and expeditious licensing procedures under section 405.

Section 306. Evaluation of Incentives for Commercialization oj Electric Vehicles

Section 306 amends section 13(c) of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (15 U.S.C. 2512(c)) to direct the Secretary of Energy and the Secretary of Transportation to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 2502, in the Corporate Average Fuel Economy calculations, pursuant to the Energy Policy and Conservation Act of 1975, as amended, to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States.

The Secretary of Transportation, in consultation with the Secretary of Energy, is directed to implement immediately the evaluation program by promulgating, within 60 days of enactment of the DOE Authorization Act for fiscal year 1980, regulations to include electric vehicles in Corporate Average Fuel Economy calculations. For this purpose conforming changes are made in the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended.

Section 307. Federal Solar Program

Section 307 amends Title V, part 2, section 524 of the National Energy Conservation Policy Act (Public Law 95-619) to extend the Federal solar building program for three years from 1980 to 1983.

TITLE IV.—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES

Section 401. Alaska Power Administration

Section 401 authorizes fiscal year 1980 appropriations for the Alaska Power Administration in the amount of $2,660,000 for operating expenses, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska.

Section 402. Southeastern Power Administration

Section 402 authorizes fiscal year 1980 appropriations for the Southeastern Power Administration in the amount of $1,400,000 for operating expenses.

Section 403. Southwestern Power Administration

Section 403 authorizes fiscal year 1980 appropriations for the Southwestern Power Administration in the amount of $32,180,000 for operating expenses.

Section 404. Western Area Power Administration

Section 404 authorizes fiscal year 1980 appropriations for the Western Area Power Administration. Subsection (a) authorizes $22,800,000 for operating expenses. Of the total $107,400,000 shall be derived from the Interior reclamation fund.

Subsection (b) authorizes $200,000 derived from the Interior reclamation fund, for the Emergency Fund (Title 43, U.S.C. Section 502), for the purpose of assuring continous operations during unusual or emergency conditions.

Subsection (c) authorizes $5,152,000 for continued work on the transmission system of the Upper Colorado River Storage Project.

Section 405. Federal Leasing and Fuel Data Gathering and Analysis

Section 405 authorizes fiscal year 1980 appropriations for operating expenses for Federal leasing and fuel data gathering and analysis programs as follows: Federal leasing, $3,368,000; and Fuel Data Gathering and Analysis, $3,000,000.

Title V.—Nuclear Assessment, Spent Fuel Storage, Operations and Decontamination and Decommissioning

Section 501. Uranium Resource Assessment—Operating Expenses

Section 501 authorizes fiscal year 1980 appropriations for operating expenses for the uranium resource assessment program in the amount of $78,693,000.

Section 502. Uranium Resource Assessment—Construction

Section 502 authorizes fiscal year 1980 appropriations for uranium resources for Project 80–GPP–1, General plant projects, Grand Junction, Colorado, $2,500,000.

Section 503. Uranium Resource Assessment—Capital Equipment

Section 503 authorizes fiscal year 1980 appropriations for uranium resource assessment capital equipment not related to construction in the amount of $3,110,000.

Section 504. Spent Fuel Storage—Operating Expenses

Section 504 authorizes fiscal year 1980 appropriations for operating expenses for the spent fuel storage program in the amount of $13,300,000, as follows: International spent fuel storage, $3,500,000; and domestic spent fuel storage, $9,800,000. The funds for international spent fuel storage are conditioned that no official of the Federal Government may obligate any funds for the purpose of conducting any site specific activity, in any territory or possession of the United States (including the Trust Territory of the Pacific Islands and any area, not within the boundaries of the several States, over which the United States claims or exercises sovereignty) or in any State, related to the storage of foreign spent nuclear fuel, unless such official has submitted a full report by the Secretaries of Energy, of the Interior, and of State—on such proposed site specific activities not less than 30 days, during which both Houses of Congress are in continuous session, with the exception of recesses of not more than three days, before any such activity commences.

Section 505. Spent Fuel Storage—Construction

Section 505 authorizes fiscal year 1980 appropriations for spent fuel storage plant and capital equipment, including land acquisition as follows: Project 79–1–p, Away-From-Reactor Nuclear Spent Fuel Storage Capacity of up to 5,000 Metric Tons, site or sites to be determined, pursuant to subsections (b), (c), (d) and (e), $300,000,000, not more than $25,000,000 of which may be obligated in fiscal year 1980 until legislation establishing title transfer, user fees and other program operating procedures has been enacted. In selecting a site for the project, the Secretary shall consult with the officials of each State in which a site under active consideration is located, and notify the Governor of the State in which the site is designated. The Governor may disapprove of the designated site in writing within 90 days of notification. A disapproved site may be used for the project only if the Governor's objections are satisfied. The section shall not affect the licensing authority of the Nuclear Regulatory Commission which may exist under other law with regard to this or any other project. In addition section 505(e) prohibits the use of Project 79–1–p for the storage of any foreign spent fuel.

Of the $25,000,000 funds may be obligated for site specific design, Environmental Impact Statements and other activities, but may not be obligated for actual acquisition of a facility and $5,000,000 are authorized for the purposes of conducting a study of the need for away from reactor storage and the options available for such storage, including the feasibility, cost and potential sites.

Section 506. Decontamination and Decommissioning

Section 506 authorizes fiscal year 1980 appropriations for operating expenses for the decontamination and decommissioning programs, as follows: Remedial action for former Department of Energy contractor installations, $11,500,000; and Remedial action for inactive uranium mill tailing sites, $11,500,000.

Subsection 506(b) directs the Secretary of Energy, within one year of the date of enactment, to submit a report to the appropriate committees of the Congress on the cost of decontamination and decommissioning of commercial nuclear power reactors in the United States. For this purpose, up to $1,000,000 are authorized from available appropriations.

TITLE VI.—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

Section 601

Section 601 authorizes fiscal year 1980 appropriations for operating expenses for the other renewable resources and conservation activities programs as follows: Buildings and Community Systems, $6,675,000; State Energy Management and Planning, $112,375,000; and Multisector, $23,635,000. However, no Energy Policy and Conservation Act grants shall be available to any State unless such State has implemented a traffic law or regulation which permits the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety.

Section 602. Energy Impact Assistance

Section 602 amends the definition of "base year" in section 601 (a)(1)(A) of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620) to read as follows:

"(a)(1)(A) either (i) employment in, or population directly related to, coal or uranium production development activities in such area has increased by 8 percent or more in any year not more than five years before the date of designation or (ii) employment in, or population directly related to, such activities will increase by 24 percent or more during the three years following the most recent year;".

TITLE VII.—OTHER DEPARTMENTAL ACTIVITIES

Section 701. Uranium Enrichment Activities—Operating Expenses

Section 701 authorizes fiscal year 1980 appropriations for operating expenses for uranium enrichment programs, as follows: Diffusion Operations and Support, $780,683,000; Centrifuge Operations and Support, $6,200,000; and Program Direction, $2,566,000.

Section 702. Uranium Enrichment Activities—Construction

Section 702 authorizes fiscal year 1980 appropriations for uranium enrichment activities plant and capital equipment as follows:

(a) Project 80–UE–1, Control of gaseous effluents, gaseous diffusion plants, Oak Ridge ,Tennessee, and Paducah, Kentucky, $7,000,000; and

(b) Project 80–UE–2, Control of water pollution, gaseous diffusion plants, $17,000,000;

(c) Project 80–UE–3, Plant facilities security improvements, gaseous diffusion plants, $17,000,000;

(d) Project 80–UE–4, Power recovery demonstration cells, gaseous diffusion plants, $10,500,000;

(e) Project 80–UE–5, Motor and switchgear upgrading, gaseous diffusion plants, $28,500,000;

(f) Project 80–UE–6, UF_6 tails cylinders and storage yards, gaseous diffusion plants, $7,000,000;

(g) Project 80–GPP–1, General plant projects, various locations, $16,200,000;

(h) Project 76–8–g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $220,000,000 for a total project authorization of $802,630,000.

Section 703. Uranium Enrichment Activities—Capital Equipment

Section 703 authorizes appropriations for uranium enrichment activities capital equipment not related to construction in the amount of $18,400,000.

Section 704. Uranium Enrichment Policy and Plan

Section 704 directs the Secretary, no later than February 1, 1980, to submit to the President and the Congress and published in the Federal Register a full and complete statement of the Department's policy governing civilian uranium enrichment services and an associated plan for civilian uranium enrichment operations through 1990, with appropriate projections to the year 2000.

Section 705. Uranium Enrichment Services Price Procedures

Section 705 amends subsection 161 v. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201) to require that procedures for the establishment of any uranium enrichment services price shall include (a) prior notification in the Federal Register with a full and complete basis for the computation of the new price, (b) a public hearing and the opportunity for public comment, and (c) jucidial review pursuant to chapter 7 of title 5 of the United States Code.

Section 706. Commercial Waste Management—Operating Expenses

Section 706 authorizes fiscal year 1980 appropriations for operation expenses for the commercial waste management program in the amount of $187,649,000.

Section 707. Commercial Waste Management—Construction

Section 707 authorizes fiscal year 1980 appropriations for commercial waste management plant and capital equipment as follows:

(a) Project 80–ES–7, Plant operation maintenance facility, Richland, Washington, $2,000,000; and

(b) Project 80–GPP–1, General plant projects, $3,300,000.

Section 708. Commerical Waste Management—Capital Equipment

Section 708 authorizes fiscal year 1980 appropriations for commercial waste management capital equipment not related to construction in the amount of $11,800,000.

Section 709. Departmental Administrative Activities—Operating Expenses

Section 709 authorizes fiscal year 1979 appropriations for operating expenses for Departmental administrative activities programs, as follows: Policy Analysis and Systems Studies, $12,500,000; Management and Support, $238,266,000, including for the Inspector General $6,182,000; International Affairs, $3,700,000; Intergovernmental and Institutional Relations, $36,815,000; In-House Energy Management, $3,600,000; Cost of Work for Others, $24,994,000; Changes in Inventory and Working Capital, $19,260,000; and Security Investigations, $16,400,000.

Section 710. Los Alamos Community Assistance

Beginning with fiscal year 1981 Section 710 provides a formula for the payment of community assistance to Los Alamos, New Mexico. The Committee amendment adopts alternative number 2 set forth in the report of the DOE working group on community assistance.

Section 711. Departmental Administrative Activities—Construction

Section 711 authorizes fiscal year 1980 appropriations for Departmental administrative activities plant and capital equipment, as follows:

(a) In-House Energy Management:

(1) Project 80–DA–1, Modification for energy management, various locations, $19,700,000;

(2) Project 80–DA–2, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, $4,500,000;

(3) Project 80–DA–3, Process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Piketon, Ohio, $4,200,000;

(4) Project 80–DA–4, Automated energy management system, Pantex Plant, Amarillo, Texas, $4,000,000; and

(5) Project 80–DA–5, Conversion of boiler No. 5 to high sulfur coal firing Argonne National Laboratory, Argonne, Illinois, $5,000,000; and

(b) Other Supporting Activities:

(1) Project 90–PE&D–1, Plant engineering and design, various locations, $9,000,000.

(c) Project 80–ES–24, Environment and Energy Technology Facility, Richland, Washington, $18,000,000.

Section 712. Departmental Administrative Activities—Capital Equipment

Section 712 authorizes fiscal year 1980 appropriations for Departmental administrative activities capital equipment not related to construction in the amount of $4,815,000.

TITLE VIII.—GENERAL PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

Section 801. Statement of Policy

Section 801 requires that, notwithstanding the provisions of other law, the general provisions of Title VIII shall apply to appropriations pursuant to annual authorization acts.

Section 802. Definitions

Section 802 defines terms used in the title such as (1) Secretary and (2) program. (From S. 2692, 95th Congress.)

Section 803. Limitations on Reprograming of Funds

Section 803 defines and delimits the authority of the Department to use funds appropriated pursuant to an authorization act in excess of certain stated amounts or for programs not yet put before the Congress. In order to exceed such limits, the Secretary must report in detail to the Congress and the report must be before the appropriate Committees for 30 days unless before that time each Committee advises the Secretary that it has no objection to the proposed action. (From Public Law 95–238 and S. 2692)

Section 804. Operating Expenses

Subsection 804(a) sets forth the permitted and prohibited uses of funds appropriated for "operating expenses" and provides for Congressional notification and a 30-day waiting period before (1) vesting title to facilities or equipment in an entity other than the United States and (2) using funds for any facility costing over $5,000,000 or any equipment costing over $2,000,000 and not previously authorized by the Congress.

Subsection 804(b) permits the use of 1 percent of "Operating expenses" for the construction, expansion or modification of laboratories or other facilities with a total project cost of $50,000 or less, a Secretarial determination of need and Congressional notification and 30-day waiting period. (From Public Law 95–238 and S. 2692)

Section 805. Plant and Capital Equipment

Section 805 provides that notwithstanding the annual authorization requirement of Section 660 of Public Law 95–91, authorizations for line item Plant and Capital Equipment projects shall remain available until fully appropriated, and that other authorizations and appropriations may remain available as specified in the authorizing or appropriation act. (From S. 2692 and S. 688)

Subsection 805(c) authorizes the Secretary to perform construction design services for construction projects under certain circumstances prior to authorization of the project. (From S. 6696 and Public Law 95–238)

Section 805 (d) provides that for the purpose of title VIII, general provisions applicable to annual authorization acts, authorizations for plant and capital equipment line item projects shall be increased to the extent of any appropriations pursuant to Public Law 95–465 and Public Law 95–482 which are in excess of the previous total authorization. This is intended to incorporate in such authorizations, for the purpose of reprogramming controls, those funds for which fiscal year 1979 appropriations acts served to authorize such funds. These projects which the Department of Energy has identified as affected are shown in the following table.

Project	Auth. derived from auth. leg.	Auth. derived from fiscal year 1979 appn. leg.	Total auth.	Fiscal year 1980 auth. request	Total auth. through fiscal year 1980
Solar technology: Project 79–1–M, OTEC–I Ocean test facility, ocean site 15–18 miles northwest of Keahole Point, Hawaii	8,800	13,500	22,300	0	22,300
Nuclear:					
Project 78–5–b, fuel cycle R. & D., integrated equipment test facility (IET), Oak Ridge National Laboratory, Oak Ridge, Tenn	3,000	6,000	9,000	0	9,000
Project 79–1–c, safeguards and security improvements, Richland, Wash	0	0	4,500	0	4,500
Project 79–1–h, maintenance and storage facility, Richland, Wash	0	3,000	3,000	0	3,000
Uranium enrichment activities: Project 76–8–g, enriched uranium production facilities, Portsmouth, Ohio	362,630	150,000	512,630	220,000	732,630

Section 806. General Plant Projects

Section 806 permits the initiation of a general plant project only if the maximum currently estimated cost of that project does not exceed $750,000 and $300,000 for any building and provides that the total cost of all projects undertaken under a General Plant Project line item shall not exceed the total authorization by more than 25 percent until additional appropriations to cover the excess are authorized. (From S. 2692)

Section 807. Exemption From Fiscal Year Limitation

Section 807 provides for amounts appropriated pursuant to an annual authorization Act to remain available until expended, when specified in an appropriation act. (From S. 2962 and Public Law 95–238)

Section 808. Use of Unexpended Balances

Section 808 allows the merger of appropriations authorized in the bill with unexpended but available balances from prior year appropriations to the Department for like purposes, when specified in an appropriation Act. For example, "operating expenses" may be merged with "operating expenses" appropriated for the same purposes pursuant to any other act. "Plant and Capital Equipment" appropriations may also be merged but "operating expenses" may not be merged with "Plant and Capital Equipment." (From S. 2692)

Section 809. Treatment of Certain Revenues

Section 809 restricts the circumstances under which the Department may retain and use uranium enrichment revenues to when specified in appropriation Acts, for the purpose of offsetting costs (including operating expenses and capital expenses) associated with existing facilities.

Receipts from power marketing and naval petroleum reserve activities are to be disposed of in accordance with the laws pertaining to such activities.

Subsection 809(b) establishes appropriate controls pursuant to title VIII in those instances where funds are drawn from both appropriations and revenues. (From S. 2692 and S. 688)

Section 810. Interagency Transfers

Section 810 provides authorization, when specified in an appropriation Act, for transfer of funds appropriated pursuant to the bill to other government agencies for performance of the work contemplated by the appropriation. Transferred funds may be merged with appropriations for the receiving agency. (From Public Law 95–238 and S. 2692)

Section 811. Personnel Expenses

Section 811 provides authorization for additional or supplemental appropriations necessary to fund increases authorized by law in salary, pay, retirement or other benefits for Federal employees. (From S. 688 and S. 2692)

Section 812. International Agreements

Section 812 authorizes the Secretary in implementing an international agreement relating to research, development, and demonstration activities, to limit the award of procurement contracts, grants, and cooperative agreements under such international agreement among the domestic agents or domestic organizations of nations or groups of nations funding such activities under such international agreement.

Section 813. Military Applications

Section 813 provides that nothing in the bill shall apply with respect to any authorization in any other law for appropriations for fiscal year 1980 for any military application of nuclear energy, for research and development in support of the actual forces, or for the common defense and security of the United States. (From S. 688)

Section 814. Repeal

Section 814 repeals section 201 of Public Law 95-238, the fiscal year 1978 civilian authorization act for the Department, effective September 30, 1979. That provision established certain general provisions pertaining to annual authorizations of appropriations for a portion of the Department's activities. (From S. 688)

TITLE IX.—MISCELLANEOUS PROVISIONS

Section 901. National Petroleum Reserve, Alaska

Section 901(a) authorizes a fiscal year 1980 appropriation of $240,000,000 to the Secretary of the Interior for the continuation and completion of the exploration program for the National Petroleum Reserve, Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258).

Section 901(b) directs the Secretary of the Interior to continue and complete the full exploration program for the National Petroleum Reserve, Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258). Upon completion of the full exploration program, the Secretary is required to submit not later than six months after completion of the program, a full report to the President and the Congress.

Section 901(c) prohibits the Secretary of the Interior on the basis of exploratory drilling in fiscal year 1979 to terminate the exploratory program, to make final conclusions, and to make final administrative decisions on Federal leasing of such reserve lands.

VIII. COST AND BUDGETARY CONSIDERATIONS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 95–150) the committee provides the following estimate of the cost of S. 2692, prepared by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 11, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 688, a bill to authorize appropriations for the Department of Energy for civilian programs for fiscal year 1980 and for other purposes.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ROBERT D. REISCHAUER
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE

1. Bill number: S. 688.

2. Bill title: A bill to authorize appropriations for the Department Energy for civilian programs for fiscal year 1980 and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, June 7, 1979.

4. Bill purpose: The bill authorizes appropriations of $7.8 billion for the civilian programs of the Department of Energy (DOE) for fiscal year 1980. This authorization level, if fully appropriated, is estimated to result in receipts of $1.5 billion in fiscal year 1980; therefore the net authorization is $6.3 billion. The authorization is $1.3 billion higher than the President's budget request for fiscal year 1980 of $6.5 billion—$5.1 billion net of receipts.

The bill creates several new programs and projects to be administered by DOE. These include an away-from-reactor spent fuel storage facility (AFR) and a loan guarantee program for a high BTU coal gasification demonstration facility. The bill also directs only the completion of the design phase of the Clinch River Breeder Reactor. The Department is further directed to study an alternative breeder reactor test plant.

In addition, the bill authorizes $240 million in fiscal year 1980 to the Department of the Interior for the exploration of the National

Petroleum Reserve in Alaska. The President is proposing to terminate this program, and has requested appropriations of only $4.4 million for fiscal year 1980.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated net authorization level:					
Title I	4,648.7				
Title II	308.8				
Title III	208.1				
Title IV	−77.2	−24.3			
Title V	420.6				
Title VI	142.7				
Title VII	629.5				
Title VIII	30.8				
Title IX	240.0				
Total	6,552.0	−24.3			
Estimated net outlays:					
Title I	2,438.8	1,232.3	576.1	392.7	8.8
Title II	248.2	34.2	13.2	13.2	
Title III	40.7	57.5	15.5	4.4	
Title IV	−123.4	6.1	12.1	3.7	
Title V	113.7	20.2	5.8	5.8	
Title VI	17.6	88.3	36.8		
Title VII	−10.9	492.3	34.6	30.0	
Title VIII	27.7	3.1			
Title IX	160.8	79.2			
Total	2,913.2	2,013.2	694.1	449.8	8.8

Titles I through VIII authorize appropriations to the Department of Energy, while Title IX authorizes funds for the Department of the Interior. The estimated budget impact is net of uranium enrichment receipts of $1.3 billion in fiscal year 1980 and power marketing receipts of $248 million in fiscal year 1980 and $24 million in fiscal year 1981.

The cost of this bill falls primarily within budget functions 250 and 270. The functional breakdown is as follows:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated net authorization level:					
Function 250	677.5				
Function 270	5,843.7	−24.3			
Function 920	30.8				
Total	6,552.0	−24.3			
Estimated net outlays:					
Function 250	514.3	102.6	42.8	9.1	8.8
Function 270	2,371.2	1,910.6	651.3	440.7	
Function 920	27.7				
Total	2,913.2	2,013.2	694.1	449.8	8.8

6. Basis of estimate: For the purpose of this estimate, it is assumed that the entire amount authorized will be appropriated prior to fiscal year 1980. The estimated annual outlays for fiscal year 1980 funds of the major DOE programs other than power marketing, uranium enrichment and several new programs are based on historical spendout patterns or the spendout of comparable activities. Estimates of uranium enrichment outlays and offsetting collections are based on DOE projections and historical data; these collections are assumed to substantially offset expenditures, as allowed by Section 809 of the bill.

Power marketing outlays result from both the construction and operations and maintenance activities of the power administrations. Approximately 90 percent of the funds for operations and maintenance are estimated to be spent in fiscal year 1980 except for the Southwestern Power Administration (SWPA). The authorization level for SWPA, $32.2 million, is based on the projected requirements if rainfall in 1980 is critically low for at least six months, which would require SWPA to purchase more costly thermal power to meet contractual commitments. For the purposes of this outlay estimate, however, it is assumed that rainfall will be normal in 1980. This will require SWPA to spend approximately $6.6 million for power purchases from outside sources. Outlays from the 1980 authorization for Southwestern Power are expected to occur over a three-year period, and for Western Area Power Administration (WAPA) over a four-year period.

Receipts represent net proceeds from sale of power. For most of the accounts involved in this authorization, such proceeds go directly to the Treasury and are not used to offset outlays within the account. However, they are a direct result of the power marketing activities resulting from this bill, and are therefore included in this cost estimate.

Title I includes an additional authorization of $241.5 million for an intersecting storage accelerator. The entire amount is included in the authorization level, although the President is requesting a 1980 appropriation of only $45 million.

Title V of the bill authorizes $300 million for the away-from-reactor spent fuel storage facility, but limits DOE to obligate only $25 million until legislation is enacted which more carefully describes the project. DOE plans to utilize the $25 million for initial planning and design work. Based on similar DOE activities it is estimated that $20 million will be spent in fiscal year 1980, and the remainder in fiscal year 1981.

Title III, Section 304 authorizes the appropriation of $98 million, including $90 million to a revolving fund for a loan guarantee for a high BTU coal gasification project and $8 million for the administration of the program. The loan guarantee will create a contingent liability of the federal government. However, because actutal construction will not take place for at least several years, no default is likely over the five-year projection period of this estimate.

Title IX of the bill authorizes $240 million in fiscal year 1980 to the Department of the Interior to continue exploratory drilling at the National Petroleum Reserve in Alaska. Based on preliminary data supplied by the United States Geological Survey, approximately $160 million will be spent in fiscal year 1980 to begin five new wells. The remaining $80 million will be used to continue work on those wells in fiscal year 1981.

In addition to the authorization levels specified in the bill, $30.8 million was added for fiscal year 1980 to reflect increases in employee pay and benefits authorized in Section 811. The amount was estimated at 5.5 percent of the fiscal year 1980 pay and benefit levels authorized by the bill.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO has prepared cost estimates for the three House versions of this bill as follows:

Date of CBO estimate	Bill	Committee	Date ordered reported
May 14	H.R. 3000 titles I, VIII	House Committee on Science and Technology.	May 1, 1979.
May 14	H.R. 3000 titles IV, V, VII	House Committee on Interior and Insular Affairs.	May 10, 1979.
May 15	H.R. 3000 titles II, III, V, VI, VIII.	House Committee on Interstate and Foreign Commerce.	May 15, 1979.

The House bills are similar, but not identical to S. 688. The authorization levels and outlay estimates reflect the differences.

9. Estimate prepared by: Mark Berkman (225–7760), Susan Cirillo (225–7760).

10. Estimate approved by:

James L. Blum,
Assistant Director for Budget Analysis.

IX. REGULATORY IMPACT EVALUATION

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, an evaluation was made of the regulatory impact that would occur in carrying out the provisions of S. 688.

The measure is not a regulatory measure in the sense of authorizing Federal programs for the establishment of standards and enforcement thereof, which would have economic impacts on the public and private sector. Rather the bill authorizes the appropriation of funds for the conduct and implementation of previously authorized programs of the Department of Energy. However, the Committee amendment does contain several minor changes in existing regulatory programs, but it is not anticipated that any additional paperwork, over and above that which would result from the existing law, would result from enactment of S. 688.

X. EXECUTIVE COMMUNICATIONS

DEPARTMENT OF ENERGY,
Washington, D.C.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with section 660 of the Department of Energy Organization Act, I am transmitting proposed legislation to authorize appropriations for the Department of Energy's civilian programs for fiscal years 1980 and 1981. The enclosed bill would authorize specific appropriations for fiscal year 1980, and such sums as might be necessary for fiscal year 1981. For fiscal year 1980, the amount authorized would total $6,539,462,000.

Enclosure 1* is the draft legislation, while Enclosure 2* is the section-by-section analysis.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

DEPARTMENT OF ENERGY,
Washington, D.C., April 24, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The President has recently completed a personal review of the fission breeder program, including the role of the Clinch River Breeder Reactor (CRBR). The review has led us to the following conclusions: (a) that a commercially deployed breeder reactor is not needed before 2020; and (b) that completion of the CRBR project would be wasteful and would not contribute substantially to a breeder program aimed at 2020 introduction.

In order to resolve the contentions and divisive issue of the Clinch River Plant, the President has proposed a five point program. Its essential features include the following:

A strong research and development program funded at $504 million for FY 1980 which will assure the availability of a deployable commercial scale breeder when needed.

Completion of systems design of the Clinch River Breeder Reactor Project.

Procurement and testing of certain components from the Clinch River Project.

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*Enclosures have been retained in Committee files.

Termination of the remainder of the Clinch River Project.

A conceptual design study for a large breeder test plant leading to a report to the Congress in March of 1981.

To accomplish these purposes, I am enclosing legislative language that would amend S. 688 in the following major respects, First, the legislation would repeal Section 106 of Public Law 91–273, as amended, removing the basic authorization for the CRBR project. The legislation does, however, provide for intelligent use of those aspects of CRBR which can contribute to the overall breeder program. It directs completion of the systems design and testing of certain key components, such as the sodium pump and pump drive, the steam generator, the in-vessel transfer machine, and the secondary control rod systems. Further, the legislation would direct the Secretary of Energy to take appropriate actions with respect to contractual arrangements previously entered into pursuant to Section 106, without prejudice to any existing rights of parties to such arrangements, in order to ensure an orderly redirection of the breeder research and development program.

Second, the legislation would require a conceptual design study for a large breeder test reactor. This design would be for a facility that would more nearly satisfy the long term requirements of our national breeder development program. It would take advantage of the technological advances which have occurred since the CRBR design. A report including the conceptual design would be submitted to the Congress by March 31, 1981, together with recommendations regarding future breeder projects.

Assuming enactment of this legislation by June 1, the bill would authorize $229.4 million to be appropriated to carry out the purposes described above. The monies would include new appropriations and the reappropriation of unexpended funds previously made available for the project.

We look forward to working with you on this important matter and are prepared to provide the Committee with any assistance necessary to assure a prompt resolution of the CRBR issue.

Sincerely,

James R. Schlesinger,
Secretary.

Department of Energy,
Washington, D.C., May 1, 1979.

Hon. J. Bennett Johnston,
Chairman, Subcommittee on Energy Regulation, Committee on Energy and Natural Resources, U.S. Senate, Washinton, D.C.

Dear Mr. Chairman: When I appeared before your distinguished Subcommittee on April 26, 1979, I said I would be pleased to furnish the Subcommittee a description of the personnel and budgetary needs of the Inspector General's Office (IG) of the Department of Energy (DOE) for fiscal year 1980

A. BACKGROUND

Our staff ceiling was reduced from 120 people in fiscal year 1978 to 100 people in fiscal year 1979, and our fiscal year 1980 ceiling is also 100 people.

Last year, the Department authorized our office to inform the Congress, and it so did, that when our then existing 120 people ceiling was reached, we would be allowed to take on an additional 35 persons or a total of 155 people.

Our present fiscal year 1980 ceiling of 100 therefore represents a decrease of 17 percent from our ceiling figure of a year ago and a decrease of 35 percent from the 155 person figure given the Congress this time last year.

With our existing staff ceiling we are unable to discharge adequately our statutory responsibilities relating to the promotion and efficiency of economy and the prevention and detection of fraud and abuse in the programs of the DOE.

B. OUR STAFFING REQUIREMENTS

Our needs for additional staff are critical but modest in scope. The 155 person figure which the Department gave the Congress last year appears to us to constitute a reasonable staffing ceiling level for fiscal year 1980.

The 55 person difference between our present 100 person staffing ceiling and our proposed 155 person ceiling would be broken down as follows—24 auditors, 14 investigators, 4 inspectors, 7 clerical and 6 people in other categories.

1. Auditors

With the 39 auditors we now have on board we have not been able to respond to high level Departmental requests that we take on additional financial auditing responsibilities. We are not doing nearly as much efficiency and economy auditing as we should be doing in view of our statutory mandate. We also lack the people needed to enable us to discharge our statutory responsibilities relating to the supervision, coordination and policy direction of the overall DOE auditing program.

Most of the 24 additional auditors we are now seeking would be stationed in the field. The basic structure of our existing IG field organization, which consists of 12 auditors and 4 investigators, was created some 30 years ago, in the early days of the old Atomic Energy Commission. We wish to expand and to update our field structure, toward the end of having the right numbers and the right mix of people stationed where DOE is currently increasing or creating new areas of responsibility.

2. Investigators

With our existing professional investigative staff of 24 investigators, our investigative work to date has been a thinly spread reactive effort consisting of investigations initiated in response to complaints and allegations. We do not have the resources needed to launch investigative initiatives in which we search for and ferret our fraud and abuse in areas where we suspect that wrongdoing may be going on.

Our investigative staffing shortages are most glaring in the field—we now have only 4 field investigators, who are dispersed among 4 different field locations around the country. Most of the 14 additional investigators we are now seeking would therefore be based in the field.

3. Inspectors

We have a need for two senior inspectors—one with a technical background in fossil energy, the other with nuclear energy expertise. We also require two junior inspectors.

4. Clerical

We will have a need for seven additional clerical people to mitigate our current shortage in this area and to handle the needs of the expanded professional staff we are requesting.

5. Other

The six additional people we are seeking in this category includpersonnel needed for a small staff unit which would do forward planning and which would also help fulfill our statutory obligation to check on the status of corrective actions taken in response to our findings and recommendations.

C. BUDGETARY IMPLICATIONS

The IG office does not now have its own budget. Our monies represent allocations from the Department's Policy and Management budget. Our fiscal year 1979 allocation is $3,369,000.

We estimate that a staff of 155 people in fiscal year 1980 would require $6,165,000 for salaries and benefits.

I would be pleased to supply the Subcommittee with any further information it may desire.

Sincerely,

J. K. MANSFIELD,
Inspector General.

DEPARTMENT OF ENERGY,
Washington, D.C., June 7, 1979.

Hon. HENRY M. JACKSON,
Chairman, Energy and Natural Resources Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your verbal request that the Department of Energy notify the Committee of its views on an amendment to the Department's FY 1980 authorization bill (civilian applications) which relates to international agreements. The amendment provides:

"The Secretary may, in implementing international agreements relating to research, development or demonstration, limit the award of procurement contracts, grants, and cooperative agreements to the domesitic agent or organizations of the nations or groups of nations funding the activities under such international agreements."

The Department has entered into a number of international agreements which provide for the sharing of project costs by the parties to the international agreement. These agreements generally contemplate that the work to be performed will be conducted by one of the nations to the agreement or will be shared by the nations funding the effort. Where DOE implements such an international agreement through the use of a procurement contract, applicable U.S. procurement laws require that all organizations, domestic and foreign, be permitted to compete for the contract. Although such contracts may include a "Buy American" clause which provides a 6 to 12 percent preference to parties offering American made goods or supplies, the Department may not, when utilizing a procurement contract, limit the award to American firms or limit the award to the supply of American made goods or services.

The proposed amendment to the DOE authorization bill would permit the Secretary to limit DOE procurement contracts to organizations of funding nations where a contract was to implement an international agreement which was cost shared by the signatory nations. We interpret this to mean that the goods or supplies offered by such organizations would have to be domestically produced, i.e., if the award was limited to U.S. firms the goods supplied would have to be made in the U.S. The application of the authority of this amendment would be discretionary with the Secretary and could be applied only in the implementation of cost shared international agreements. Further, the amendment would not affect the bulk of the Department's RD&D activities since its authority would be limited to cost shared international agreements.

Finally, this authority would apply to the three types of instruments (contracts, cooperative agreements or grants) specified by P.L. 95–224, the Federal Grant and Cooperative Agreement Act of 1977, available to the Department in carrying out its activities. While we do not believe that the problem is as severe when a grant or cooperative agreement instrument is utilized by the Department to implement an international agreement, the availability of the authority of this amendment for such instruments would, nevertheless, be useful.

In view of the flexibility provided by the proposed amendment to aid DOE in implementing international agreements, the Department fully supports this amendment.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Holsey G. Handyside
(For Harry E. Bergold, Jr.,
Assistant Secretary, International Affairs).

XI. ADDITIONAL VIEWS OF SENATORS McCLURE, DOMENICI, STEVENS, BELLMON, AND WALLOP

Opposition to Section 105 of S. 688, as Reported

The bill, as reported, includes a new section 105, which contains the Administration proposal to terminate the Clinch River Breeder Reactor and repeal all authority for any Liquid Metal Fast Breeder Reactor (LMFBR) demonstration project. In our view, section 105 constitues a major step in the final abandonment of our national commitment to an LMFBR-breeder option for the United States. We opposed section 105 in the committee, and we strongly recommend that the Senate reject it and adopt a renewed commitment to a breeder demonstration project.

Section 105 clearly is tantamount to abandonment of the national commitment to an LMFBR-breeder option. It completely terminates the Clinch River Breeder Reactor, without any serious attempt to preserve any meaningful engineering or scientific value for the $700 million and 10 years invested in the Clinch River project. The section repeals all existing authority, originated 10 years ago, for any LMFBR-breeder demonstration project, thereby wiping out the extensive legislative history since 1969, the successive refinements in the statutory authorization, a series of important Comptroller General opinions, and a series of affirmative actions by Congress related to that legislation. This section will destroy the Government-induced partnership in the project and breeder R&D with the utility industry, by not refunding utility contributions in excess of $100 million, and by virtually mandating the dissolution of the utility-supported management team. Also, the amendment would effectively disband the industrial manufacturing team and make major reductions in the national design team supporting LMFBR-breeder demonstration.

It is patently obvious that enactment of section 105 would lead to further attacks on the remaining breeder research and development program. That program is already down $100 million in S. 688 from last year. Senior Administration officials apparently have stated already that there will be further significant reductions in the immediate future, which is consistent with the Administration's refusal now to reaffirm last year's commitment by President Carter and Secretary Schlesinger to breeder research and development funding next year, in FY 1981, of half a billion dollars. There also are reports of pending Administration action to stop and terminate other breeder projects beyond Clinch River, such as the Fast Flux Test Facility. Despite continued protestations to the contrary from the Administration, it is apparent now that the Administration's oft-repeated support for "a strong breeder R&D program" apart from the Clinch River project, is intended only to be a pause, for political purposes, in the abandonment of the LMFBR-breeker option, pending enactment of section 105. Once the section is enacted, the attack on the remaining R&D program would be quite predictable.

We oppose this de facto, virtual abandonment of the LMFBR-breeder option at this time, because this nation simply and obviously does not have the luxury any longer to abandon *any* major energy supply option, and there is absolutely no doubt that the LMFBR-breeder reactor constitutes the major long-range energy supply option for electric power in the United States. It has been the cornerstone of this nation's energy R&D program for the past decade for precisely that reason. All of the information available to us still suggests that an LMFBR option remains an important and necessary option for the nation. The uncertainties in domestic uranium resource availability, the pace of future development of nuclear power, the growth of electric power demand, and the eventual acceptability/viability of other options remain the subject of serious debate.

The Administration's recent White Paper on the breeder reactor and the DOE nuclear strategy report, which include the "analysis" supporting section 105, are seriously flawed in both assumptions and fact. The GAO report of May 7, 1979 (EMD–79–62) correctly criticizes and dismisses the Administration's assumptions and conclusions. Those same assumptions and conclusions have been thoroughly discredited repeatedly by the scientific and technical communities. It is precisely for these reasons that Britain, France, West Germany, Japan and the Soviet Union all are committed to early development and deployment of an LMFBR breeder reactor as an alternative to foreign oil. In short, there is simply no justification today to abandon the option, while there is every obvious justification, in light of our national energy peril, to preserve all our options.

One Administration argument of particular note continues to plague consideration of the LMFBR-breeder option. Nuclear nonproliferation has been offered as a primary concern with a breeder demonstration project. The previously cited GAO report thoroughly discredits this assertion. In fact, the Administration initiated International Nuclear Fuel Cycle Evaluation has concluded that the LMFBR-breeder is a legitimate and important part of the energy security of the industrialized free world and should be developed rapidly. The lead Administration official on nonproliferation, Assistant Secretary of State Thomas Pickering, has confirmed that conclusion in testimony before this Committee. Also, the United States will even be providing our plutonium, and plutonium subject to U.S. controls, for breeder projects in Europe and Japan. There is no non-proliferation problem with the LMFBR-breeder option in the United States; and the Administration well knows it.

As this brief discussion indicates, we strongly believe that section 105 leads the United States in exactly the opposite direction from where our clear national interest should take us at this crucial point in our energy history. We urge our colleagues in the Senate to support the effort to strike the section from the bill and substitute a commitment now to pursue the LMFBR-breeder option. We sincerely believe that our collective responsibility to this great nation requires us to reverse the course set by section 105.

JAMES A. MCCLURE.
PETE V. DOMENICI.
TED STEVENS.
HENRY BELLMON.
MALCOLM WALLOP.

XII. CHANGES IN EXISTING LAWS

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 688, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Atomic Energy Act of 1954

(Public Law 83-703, 68 Stat. 919)

* * * * * * *

AN ACT To amend the Atomic Energy Act of 1946, as amended, and for other purposes

* * * * * * *

"CHAPTER 14. GENERAL AUTHORITY

"Sec. 161. General Provisions.—

v. (A) enter into contracts with persons licensed under sections 53, 63, 103 or 104 for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and (B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time, *using procedures for any such price which shall include (a) prior notification in the Federal Register with a full and complete basis for the computation of the new price, (b) a public hearing and the opportunity for public comment, and (c) judicial review pursuant to Chapter 7 of Title 5 of the United States Code*: *And provided further*, That the Commission, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States; *Provided*, That before the Commission establishes such criteria, the proposed criteria shall be Submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five day period.

"w. prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

PUBLIC LAW 91-273 (AEC AUTHORIZATION ACT FOR FISCAL YEAR 1971)

AN ACT To authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended and for other purposes.

* * * * * * *

[SEC. 106. LIQUID METAL FAST BREEDER REACTOR DEMONSTRATION PROGRAM—FOURTH ROUND.—(a) The Commission is hereby authorized to enter into a cooperative arrangement with a reactor manufacturer and others for participation in the research and development, design, construction, and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with the criteria heretofore submitted to the Joint Committee on Atomic Energy and referred to in section 106 of Public Law 91-44, without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended, and the Commission is further authorized to continue to conduct the Project Definition Phase subsequent to the aforementioned cooperative arrangement. Appropriations totalling $100,000,000 are hereby authorized for the aforementioned cooperative arrangement and for the Project Definition Phase authorized by section 106 of Public Law 91-44 and this section, said total amount to include the sum authorized by section 106 of Public Law 91-44. The Commission is also authorized hereby, without regard to the provisions of section 3679 of the Revised Statutes, as amended, to agree under said cooperative arrangement to provide assistance up to a total amount of $100,000,000 less the sums available to the Commission and utilized for the Project Definition Phase contracts authorized pursuant to section 106 of Public Law 91-44 and this section; and, in addition to said total amount, in the Commission's discretion, to provide assistance in the form of Commission-furnished services, facilities or equipment otherwise available to or planned by the Commission under its civilian base program: *Provided*, That such assistance shall not include the furnishing of end capital items of this demonstration plant excluding items which the Commission may deem necessary for research, development or testing in light of its liquid metal fast breeder reactor base program: *And provided further*, That such assistance which the Commission undertakes specifically for this demonstration plant shall not exceed 50 per centum of the estimated capital cost of such plant: *And Provided*, That said ceiling amounts shall not be deemed to include assistance in the form of waiver of use charges during the term of the cooperative arrangement and the Commission may agree to provide such assistance without regard to the provisions of section 53 of the Atomic Energy Act, as amended, by waiving use charges in an amount not to exceed $10,000,000. Notwithstanding the foregoing, authorization of additional appropriations for the conduct of Project Definition Phase activities subsequent to the execution of the aforementioned cooperative arrangement, in the amount of $3,000,000 is hereby authorized.

[(b) Before the Commission enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which the Commission proposes to execute (including the name of the proposed participating party or parties with whom the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by the Commission and the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period: *Provided further*, That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein: *And, provided further*. That no basis for arrangement need be resubmitted to the Joint Committee for the sole reason that the estimated amount of the cost to be incurred by the Commission exceeds the estimated cost previously submitted to the Joint Committee by not more than 15 per centum.

[(c) The Commission is hereby authorized to agree, by modification to the definitive cooperative arrangement reflecting such changes therein as it deems appropriate for such purpose, to the following: (1) to execute and deliver to the other parties to the AEC definitive contract, the special undertakings of indemnification specified in said contract, which undertakings shall be subject to availability of appropriations to the Atomic Energy Commission (or any other Federal agency to which the Commission's pertinent functions might be transferred at some future time) and to the provisions of section 3679 of the Revised Statutes, as amended; and (2) to acquire ownership and custody of the property constituting the Liquid Metal Fast Breeder Reactor powerplant or parts thereof, and to use, decommission, and dispose of said property, as provided for in the AEC definitive contract.]

Public Law 94–187

AN ACT To authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974 and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes

* * * * * * *

Sec. 101 * * *

(b) * * *

(1) Coal.—

Project 76–1–b, high Btu synthetic pipeline gas demonstration plan (A–E and long-lead procurement), **[**$20,000,000.**]** *$150,000,000.*

Project 76–1–c, low Btu fuel gas demonstration plant, (A–E and long-lead procurement), **[**$150,000,000**]** *$151,000,000.*

* * * * * * *

(2) Solar Energy Development.—

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Project 76–2–b, ten megawatt central receiver solar thermal powerplant, (A–E and long-lead procurement), **[**$47,250,000**]** *$111,750,000.*

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(8) Nuclear Materials.—

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(8) Nuclear.—

Project 76–8–g, **[**additional facilities enriched uranium production, locations undetermined, $25,000,000.**]** *Enriched Uranium Production Facilities, Portsmouth, Ohio, $732,630,000.*

Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976

(Public Law 94–413)

An ACT To authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

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Sec. 13. Studies.—

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(c) The Administrator shall perform, or cause to be performed, studies and research on incentives to promote broader utilization and consumer acceptance of electric and hybrid vehicle technologies. A description and a statement of the findings of such studies and research activities shall be included in each report submitted under section 14.

EVALUATION OF INCENTIVES FOR COMMERCIALIZATION

(1) The Secretary of Energy and the Secretary of Transportation are authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 2502, in the Corporate

Average Fuel Economy calculations, pursuant to the Energy Policy and Conservation Act of 1975, as amended, to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shall be conducted in parallel with the research and development activities of section 2505 and the demonstration activities of section 2506 to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

(2) The Secretary of Transportation, in consultation with the Secretary of Energy, shall implement immediately the evaluation program by promulgating, within 60 days of enactment of the DOE Authorization Act for Fiscal Year 1980, regulations to include electric vehicles in Corporate Average Fuel Economy calculations, consistent with the following amendment. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended, is further amended by adding new section 2003(a)(3), which reads as follows:

"(3) In the event that a manufacturer includes electric vehicles in its fleet, the average fuel economy will be calculated in the following manner:

"(A) The Secretary of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

"(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

"(ii) the national average electricity generation and transmission efficiencies;

"(iii) the national average percentage use of petroleum in electricity generation;

"(iv) the specific driving patterns of electrical vehicles as compared with those of petroleum fueled vehicles.

"(B) These equivalent petroleum fuel economy values will be used in the determination of corporate average fuel economy standards as required in section 2002.

"(C) The Secretary of Energy will propose equivalent fuel economy values within four months of enactment of the Department of Energy Authorization Act for Fiscal Year 1980. Final promulgation of the values is required no later than six months after the proposal of the values.

"(D) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary."

(3) The Secretary of Energy, in consultation with the Secretary of Transportation shall include a full discussion of this evaluation program in the annual report required by section 2513 in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation, shall submit to the Congress on January 1, 1986, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the Corporate Average Fuel Economy calculations.

Public Law 95–39—(ERDA Authorization Act for Fiscal Year 1977)

AN ACT to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

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PLANT AND CAPITAL EQUIPMENT

Sec. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Fossil energy development coal.

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(B) Project 77–1–b for a high Btu pipeline gas demonstration plant (which is estimated to cost a total of $500,000,000, including the non-Federal share of such cost) is authorized. The amount authorized for such plant is **[**$10,000,000.**]** *$17,000,000.*

(C) Project 77–1–c for fuel gas low Btu demonstration plant (which is estimated to cost a total of $380,000,000, including the non-Federal share of such cost) is authorized. The amount authorized for such plant is **[**$5,000,000.**]** *$11,000,000.*

Public Law 95–238

AN ACT To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes

*   *   *   *   *   *   *

Sec. 102(a) * * *

(2) Fossil Energy Development.—* * *

(C) Project 78–2–c, Low-Btu fuel gas small industrial demonstration plants, * * * **[**$6,000,000.**]** *$25,000,000.*

(D) Project 78–2–d, solvent refined coal (SRC–I) demonstration plant, * * * **[**$30,000,000**]** *$100,000,000.*

(3) Magnetic Fusion:

*   *   *   *   *   *   *

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), **[**$14,400,000**]** *$82,250,000.*

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(5) Liquid Metal Fast Breeder Reactor:

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(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E long-lead procurement and limited construction only), **[**$20,100,000**]** *$120, 700,000.*

*   *   *   *   *   *   *

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A–E *and long-term procurement* only) [$4,000,000] *$13,500,000.*

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, [$134,-800,000] *$170,000,000.*

(8) HIGH ENERGY PHYSICS.—

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(B) 78–10–b [motor-proton intersecting storage accelerator facility (*Isabelle*), Brookhaven National Laboratory, $10,500,000] *Intersecting storage accelerator (Isabelle) 400 x 400 Gev, Brookhaven National Laboratory, Updon, New York, $275,000,000.*

THE ENERGY REORGANIZATION ACT OF 1974 AS AMENDED BY PUBLIC LAW 95–238

* * * * * * *

[PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

[SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as "annual authorization Acts").

[(b)(1) Funds appropriated pursuant to an annual authorization Act for "Operating expenses" may be used for—

[(A) the construction or acquisition of any facilities or major items of equipment, which may be required at locations other than installations of the Administration for the performance of research, development, and demonstration activities, and

[(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

[(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

[(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

[(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

[(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

[(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

[(A) a period of thirty calendar days (not including any day in which either House of Congress is not in section because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

[(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

[(d)(1) Except as otherwise provided in the authorization Act involved—

[(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

[(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress.

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

[(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

[(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes purstant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for "Plant and capital equipment" may be merged with amounts appropriated for 'Operating expenses'.

[(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

[(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

[(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, not withstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

> **[**(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

[(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

[(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.**]**

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

(Public Law 95–617)

An Act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics.

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TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

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SEC. 409. THE SMALL COMMUNITY HYDROELECTRIC ASSISTANCE PROGRAM.

(a) The Secretary is authorized in accordance with such rules and regulations as he shall prescribe, after consultation with the Secretary of Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principle balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any State or local government, or agency thereof, for the purpose of financing the project costs of small hydroelectric power projects.

(b) The Secretary is authorized to guarantee or make commitments to guarantee, pursuant to this section, to a total outstanding indebtness which at no time shall exceed $300,000,000.

(c) The Secretary is authorized to approve an application for such guarantee or commitment to guarantee for a small hydroelectric power project only if—

(1) the total amount guaranteed shall not exceed 90 per centum of the project costs,

(2) the total amount guaranteed shall not exceed $50,000,000,

(3) the maximum maturity of the obligation shall not exceed fifty years,

(4) the project is financially and economically feasible and there is a reasonable assurance of repayment of the guaranteed bond debenture, note or other obligation, and

(5) the provisions of Federal and State law applicable to the project will be satisfied in the construction and operation of the project.

(d) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(e) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment

to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

(f)(1) If there is a default by the borrower, as defined in regulations promulgated by the Secretary and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Secretary. Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Secretary.

(2) If the Secretary makes a payment under paragraph (1) of this subsection, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that this is in the public interest. The rights of the Secretary with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

(g) With respect to any obligation guaranteed under this section, the Secretary is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Secretary finds that—

(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

(2) the amount of such payment which the Secretary is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

(3) the borrower agrees to reimburse the Secretary such payment on terms and conditions, including interest, which are satisfactory to the Secretary.

(h) Regulations required by this section within ninety days after enactment of this section.

(i) The Secretary shall charge and collect fees for guarantees of obliga-ions authorized by this section, in amounts which are sufficient in the udgment of the Secretary to cover the applicable administrative costs.

(j) Nothing in this section shall be construed as affecting the obligations f any person receiving financial assistance pursuant to this section to omply with Federal and State environmental, land use, water, and health nd safety laws and regulations or to obtain applicable Federal and State ermits, licenses, and certificates.

(k)(1) There is hereby created within the Treasury a separate fund hereafter in this section called the "fund") which shall be available to he Secretary without fiscal year limitation as a revolving fund for the urpose of carrying out the program authorized by this section.

(2) There are hereby authorized to be appropriated to the fund for ad-inistrative expenses from time to time such amounts as may be necessary o carry out the purposes of the applicable provisions of this section, in-luding, but not limited to, the payments of interest and principal and the ayment of interest differentials and redemption of debt. All amounts eceived by the Secretary as interest payments or repayments of principal n loans which are guaranteed under this section, fees, and any other noneys, property, or assets derived by him from operations under this ection shall be deposited in the fund.

(3) All payments on obligations, appropriate expenses (including eimbursements to other Government accounts), and repayments pursuant o operations of the Secretary under this section shall be paid from the und subject to appropriations. If at any time the Secretary determines hat moneys in the fund exceed the present and reasonably foreseeable uture requirements of the fund, such excess shall be transferred to the eneral fund of the Treasury.

(4) If at any time the moneys available in the fund are insufficient to nable the Secretary to discharge his responsibilities as authorized by this ection, the Secretary shall issue to the Secretary of the Treasury notes r other obligations in such forms and denominations, bearing such ma-urities, and subject to such terms and conditions as may be prescribed y the Secretary of the Treasury. Redemption of such notes or obligations hall be made by the Secretary from appropriations or other moneys avail-ble under paragraph (2) of this subsection for loan guarantees authorized y this section. Such notes or other obligations shall bear interest at a ate determined by the Secretary of the Treasury, which shall be not less han a rate determined by taking into consideration the average market ield on outstanding marketable obligations of the United States of com-arable maturities during the month preceding the issuance of the notes r other obligations. The Secretary of the Treasury may at any time sell ny of the notes or other obligations acquired by him under this subsection.

(l) With respect to any obligation which is issued after the enactment f this section by, or in behalf of, any State or political subdivision and hich is either guaranteed under, or supported by taxes levied by said ssuer which are guaranteed under this section, the interest paid on such bligation and received by the purchaser thereof (or the purchaser's suc-essor in interest) shall be included in gross income for the purpose of hapter 1 of the Internal Revenue Code of 1954, as amended: Provided, That the Secretary shall pay to such issuer out of the fund established by his section such portion of the interest on such obligations, as determined y the Secretary of the Treasury to be appropriate after taking into account

current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall recommend.

(m) Feasibility studies of small hydroelectric power projects proposed for assistance under this section also may have been the subject of assistance under section 402.

(n) Small hydroelectric power projects proposed for assistance under this section also shall be subject to simplified and expeditious licensing procedures under section 405. Such procedures under section 405 shall, to the maximum extent feasible, be concurrent with the procedures of this section. Any requirements, pursuant to subsection 102(c)(3) of the National Environmental Policy Act, for the same small hydroelectric power project under section 405 and under this section shall be consolidated into a single assessment or statement for the purposes of both section 405 and this section.

(o) For the purposes of this section, the term "small hydroelectric power projects" shall be defined as any new hydroelectric project, with or without a dam impoundment structure, which has not more than 25,000 kilowatts of installed capacity.

NATIONAL ENERGY CONSERVATION POLICY ACT (PUBLIC LAW 95-619)

AN ACT For the relief of Jack R. Misner.

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TITLE V—FEDERAL ENERGY INITIATIVE

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

SEC. 501. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsections:

"(d) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(e) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

SEC. 521. DEFINITIONS.

As used in the part—

(1) The term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "Federal building" means any building or other structure owned in whole or part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water.

(4) The term "solar heating and cooling" means the use of solar energy to provide all or part of the heating needs of a Federal building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

(5) The term "solar energy equipment" means equipment for solar heating or solar heating and cooling.

(6) The term "Secretary" means the Secretary of Energy.

SEC. 522. FEDERAL SOLAR PROGRAM.

The Secretary, in consultation with the Administrator of the General Services Administration, shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 523. DUTIES OF SECRETARY.

(a) DUTIES.—In exercising the authority provided by section 522, the Secretary, in consultation with the Administrator of the General Services Administration, shall—

(1) promulgate, by rule—

(A) requirements under which Federal agencies shall submit proposals for the installation of solar energy equipment in Federal buildings which are under their control and which are selected in accordance with procedures set forth in such rule, and

(B) criteria by which proposals under subparagraph (A) will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value, as determined by the Secretary, of the costs and benefits of the proposal to the Federal agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of types of Federal buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(2) evaluate in writing each such proposal pursuant to the criteria promulgated pursuant to paragraph (1)(B), and make such evaluation available to the agency and, upon request, to any person;

(3) provide technical and financial assistance by interagency agreement for implementing a proposal evaluated under paragraph (2) and approved by the Secretary; except that such assistance shall be limited to the design, acquisition, construction, and installation of solar energy equipment;

(4) provide, by rule, that Federal agencies report to the Secretary periodically such information as they acquire respecting maintenance and operation of solar energy equipment for which assistance is provided under paragraph (3);

(5) require that a life cycle cost analysis in accordance with part 3 be done for any Federal building for which a proposal is submitted under this section and the results of such analysis be included in such proposal; and

(6) if solar energy equipment for which assistance is to be provided under paragraph (3) is not the minimum life-cycle cost alternative, require the Federal agency involved to submit a report to the Secretary stating the amount by which the life-cycle cost of such equipment exceeds the minimum life-cycle cost.

(b) CONTENTS OF PROPOSALS.—Proposals under paragraph (1)(A) of subsection (a) shall include a list of the specific Federal buildings proposed to be provided with solar energy equipment, the funds necessary for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Secretary.

(c) INITIAL SUBMISSION OF PROPOSALS.—Under the requirements established under subsection (a)(1)(A), initial proposals for the installation of solar energy equipment in Federal buildings selected under subsection (a)(1)(A) shall be submitted not later than 180 days after the date of promulgation of the rule under subsection (a)(1).

SEC. 524. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary through fiscal year ending September 30, [1980] *1983*, to carry out the purposes of this part not to exceed $100,000,000. Funds so appropriated may be transferred by the Secretary to any Federal agency to the extent necessary to carry out the purposes of section 523(a)(3).

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Calendar No. 245

96TH CONGRESS
1st Session

SENATE

REPORT
No 96–233

HEW HOME HEALTH REPORT

JUNE 27 (legislative day, JUNE 21), 1979.—Ordered to be printed

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Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany S. Res. 169]

The Committee on Finance, to which was referred the resolution (S. Res. 169), relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services, having considered the same, reports favorably thereon without amendment and recommends that the resolution do pass.

DESCRIPTION OF THE RESOLUTION

Section 18 of Public Law 95–142 required the Secretary of HEW to submit a report to Congress analyzing, evaluating, and making recommendations on all aspects of the delivery of home health and other in-home services provided under titles XVIII, XIX, and XX of the Social Security Act. The report was also to include an evaluation of the coordination of such services under the different titles, along with recommendations for changes in regulations and legislation on the scope of services provided, eligibility requirements, standards for provider certification, utilization control and quality assurance, reimbursement methods, and the prevention of fraud and abuse. As submitted, the HEW report does not contain the required recommendations for legislative changes.

The resolution would return the report to the Secretary with the direction that it be revised to comply with the requirements of Public Law 95–142, including the requirement that recommendations for legislation be submitted, and that such report be returned to the appropriate committees of the Congress not later than September 1, 1979.

VOTE OF THE COMMITTEE

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the resolution. The resolution was ordered reported by voice vote.

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96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–234

REPORT OF THE SELECT COMMITTEE ON INDIAN AFFAIRS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

JUNE 29 (legislative day JUNE 21), 1979.—Ordered to be printed
Filed, under authority of the order of the Senate of June 26, (legislative day June 21), 1979

Mr. MELCHER, from the Select Committee on Indian Affairs, submitted the following

REPORT

The Select Committee on Indian Affairs submits the following report in compliance with section 302(b) of the Congressional Budget Act of 1974. The Budget Act requires that as soon as parcticable after a concurrent resolution on the budget is agreed to, committees shall submit to the Senate a report subdividing among its subcommittees or programs the allocation of budget authority and budget outlays allocated to the committee in the joint explanatory statement accompanying the conference report on such concurrent resolution.

That allocation by program is as follows:

DIRECT SPENDING JURISDICTION—FISCAL YEAR 1979

[In millions of dollars]

	Budget authority	Outlays
Function 450—Bureau of Indian Affairs:		
Liquidation of Hoonah housing project (14-4320-0-3-452)	0	(1)
Miscellaneous permanent appropriations (area and regional development) (14-9925-0-2-452)	17	16
Miscellaneous trust funds (area and regional development) (14-9973-0-7-452)	265	177
Function 800—Bureau of Indian Affairs: Miscellaneous permanent appropriations (14-9925-0-2-806)	(1)	(1)
Total direct spending jurisdiction	282	193

[1] Less than $500,000.

Note: Totals rounded off to the nearest million. None of the above amounts represents "controllable" amounts.

ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

None.

DIRECT SPENDING JURISDICTION—FISCAL YEAR 1980

[In millions of dollars]

	Budget authority	Outlays
Function 450—Bureau of Indian Affairs:		
Liquidation of Hoonah housing project (14-4320-0-3-452)	0	(1)
Miscellaneous permanent appropriations (area and regional development) (14-9925-0-2-452)	17.4	17.1
Miscellaneous trust funds (area and regional development) (14-9973-0-7-452)	250.1	190.7
Function 800—Bureau of Indian Affairs:		
Miscellaneous permanent appropriations (14-9925-0-2-806)	(1)	(1)
Total direct spending jurisdiction	268.0	208.0

[1] Less than $500,000.

Note: Totals are rounded off to the nearest million. None of the above amounts represents "controllable" amounts.

ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

None.

DIRECT SPENDING JURISDICTION—FISCAL YEAR 1981

[In millions of dollars]

	Budget authority	Outlays
Function 450—Bureau of Indian Affairs:		
Liquidation of Hoonah housing project (14-4320-0-3-452)	0	(1)
Miscellaneous permanent appropriations (area and regional development) (14-9925-0-2-452)	17.9	17.6
Miscellaneous trust funds (area and regional development) (14-9973-0-7-452)	251.0	258.0
Function 800—Bureau of Indian Affairs: Miscellaneous permanent appropriations (14-9925-0-2-806)	(1)	(1)
Total direct spending jurisdiction	269.0	276.0

[1] Less than $500,000.

Note: Totals rounded off to the nearest million. None of the above amounts represents "controllable" amounts.

ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

None.

DIRECT SPENDING JURISDICTION—FISCAL YEAR 1982

[In millions of dollars]

	Budget authority	Outlays
Function 450—Bureau of Indian Affairs:		
Liquidation of Hoonah housing project (14-4320-0-3-452)	0	(1)
Miscellaneous permanent appropriations (area and regional development) (14-9925-0-2-452)	18.4	18.1
Miscellaneous trust funds (area and regional development) (14-9973-0-7-452)	251.3	251.0
Function 800—Bureau of Indian Affairs: Miscellaneous permanent appropriations (14-9925-0-2-806)	(1)	(1)
Total direct spending jurisdiction	270.0	269.0

[1] Less than $500,000.

Note: Total rounded off to the nearest million. None of the amounts represent "controllable" amounts.

ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

None.

Calendar No. 246

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96–235

RECLAMATION REFORM ACT OF 1979

JULY 6 (legislative day, JUNE 21), 1979.—Ordered to be printed
Filed under authority of the order of the Senate of June 27 (legislative day, June 21), 1979

Mr. CHURCH, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

SUPPLEMENTAL AND ADDITIONAL VIEWS

[To accompany S. 14]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 14) a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes, having considered the same, reports favorably thereon with amendment(s) and recommends that the bill (as amended) do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert the following:

That this Act shall be a supplement to the Act of June 17, 1902, and Acts supplementary thereof and amendatory thereto (43 U.S.C. 311), hereinafter referred to as the Federal Reclamation Law, and this Act may be cited as the "Reclamation Reform Act of 1979".

DEFINITIONS

SEC. 2. (a) The term "Secretary" means the Secretary of the Interior.

(b) The term "individual" means any person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(c) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(d) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five individuals that is receiving water service from, through, or by means of a Federal reclamation project on the date of this Act.

★(Star print)

(e) The term "landholding" means the total acreage of one or more tracts of land owned or operated under a lease or leases by any person alone or by participation in a legal entity which is served with a water supply pursuant to a contract with the Secretary.

ACREAGE LIMITATION

SEC. 3. (a) The Federal Reclamation Law shall apply only to lands which are included within a Federal reclamation project which has been authorized by statute and which are served with a water supply from, through or by means of works provided by such authorization pursuant to a contract with the Secretary.

(b) Any provision of the Federal Reclamation Law which establishes a limitation on acreage to be served with a water supply to the contrary notwithstanding, a landholding of any qualified recipient which consists of one thousand two hundred and eighty acres or less shall be considered to be within the acreage limitation of the Federal Reclamation Law.

(c) In the determination of excess lands under the provisions of this Act or any other provision of the Federal Reclamation Law, the applicable acreage limitation shall be interpreted as applying to a landholding as defined in subsection 2(e) of this Act.

(d) Lands included in a landholding of any qualified or limited recipient which exceed the acreage limitation imposed by this Act or lands included in a landholding of any other person which violate the provisions of this Act and any other provision of the Federal Reclamation Law and which are receiving a reclamation water supply but are not under a recordable contract on the date of enactment of this Act shall be placed under a recordable contract within three years of the date of enactment of this Act as a condition of continued water service.

(e) Recordable contracts entered into pursuant to the provisions of subsection (d) of this section shall provide for the disposal of such excess land within ten years of the date of enactment of this Act.

(f) The Secretary may, in his discretion, by rule, impose a limitation on the number of landholdings that may be managed by another person on behalf of qualified recipients or other landholders.

(g) Except to the extent that they are inconsistent with the provisions of this Act, the provisions of the Federal Reclamation Law, including those provisions relating to the implementation of the acreage limitation, shall remain in full force and effect.

(h) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal Reclamation Law.

EQUIVALENCY

SEC. 4. Wherever an acreage limitation is imposed by the Federal Reclamation Law, the Secretary shall (upon request of a qualified or limited recipient or other contracting entity representing one or more qualified or limited recipients) designate by rule the acreage of a landholding which may receive water at one thousand two hundred and eighty acres of class 1 land in the case of a qualified recipient or one hundred and sixty acres in the case of a limited recipient or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RESIDENCY NOT REQUIRED

SEC. 5. Notwithstanding any other provision of law, a qualified or limited recipient shall not be required to be a resident on or near a landholding in order for such landholding to be eligible to receive water pursuant to a contract with the Secretary.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 6. (a) The acreage limitation provisions of the Federal Reclamation Law shall cease to apply to any landholding upon completion of the repayment by any contracting entity of the amount of any construction costs required to be repaid by such contracting entity by the terms of any contracts with the Secretary relating to the delivery of water supplies to such landholding for agricultural use either in the repayment period provided pursuant to the contract or, notwithstanding the payment schedule of a contract, upon lump sum payment or after repayment by an accelerated schedule when such accelerated schedule is applied for by said contracting entity: *Provided*, That where any such contract has been or may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1948, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal Reclamation Law shall not apply solely as a result of the indebtedness under such contract.

(b) The Secretary shall provide upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acreage limitation of the Federal Reclamation Law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located.

LEASING RESTRICTIONS

SEC. 7. (a) Lands which are leased by any lessee and operated for agricultural production utilizing water supplied pursuant to a contract with the Secretary shall be considered to be part of such lessee's landholding as well as the lessor's landholding for purposes of applying the acreage limitation of the Federal Reclamation Law.

(b) Notwithstanding the acreage limitation provisions of section 3(b) of this Act, a lessee may receive water for lands in excess of one thousand two hundred and eighty acres if he notifies the Secretary showing that such lands in excess of one thousand two hundred and eighty acres are leased for a period of one year or less without a right of renewal.

(c) The right to receive water pursuant to subsection (7)(b) shall be effective upon the filing of notice of the lease with the Secretary, containing the name of the lessee and lessor and the length of its term, and shall continue subject to any subsequent determination by the Secretary that the requirements of this section have not been met.

(d) Lessees holding lands in excess of the acreage limitation of this Act or of any other provisions of the Federal Reclamation Law under the provisions of a valid written lease effective as of the date of this Act shall be required to comply with the appropriate acreage limitation within ten years of the date of this Act.

EXEMPTIONS

SEC. 8. (a) The Secretary is authorized to continue delivery of water supplies to all project lands held by bona fide religious or charitable nonprofit organizations as of January 1, 1978, without regard to the acreage limitation of this Act or other Federal Reclamation Law so long as title remains unchanged and as long as the agricultural produce and proceeds of sales are directly used for charitable purposes.

(b) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(c) The acreage limitation of the Federal Reclamation Law shall not apply to lands within the Imperial Irrigation District of California.

(d) Any other provision of law notwithstanding, neither the acreage limitation, nor other provisions of the Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto) shall be applicable to landholdings receiving benefits from Federal water resource projects constructed by the United States Army Corps of Engineers unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project, or

(2) the Secretary of the Interior, pursuant to his authority under the Federal Reclamation Law has provided project works for the control or conveyance of an agricultural water supply for the lands involved, or

(3) the provisions of the Federal Reclamation Law are, by Federal statute explicitly made applicable to the lands involved.

(e) The acreage limitation of the Federal Reclamation Law shall not apply to lands temporarily provided with a water supply in unusually wet years or from infrequent flood flows of short duration, nor shall such limitation apply to lands leased for one year or less for the purpose of water conservation or management in years of inadequate water supply.

(f) Nothwithstanding the provisions of section 3, the Secretary may deliver water to minor tracts of land though the delivery to such tracts may cause a qualified recipient to become an excess landholder if the Secretary determines that there is no economically viable alternative means of operating such minor tracts.

(g) Land in excess of a landholding upon sale into nonexcess status after the effective date of this Act, shall be eligible to receive water service only if title to the land is subject to a condition that the land shall not be sold at a price greater than the landowner's cost for the land, plus the value of any improvements, both increased only by the rate of increase of the Consumer Price Index for the period between the date of that landowner's purchase and the date of his sale of the land: Provided, That if such land has continuously remained as nonexcess land for a period of ten or more years, the sale price of the land after the tenth year may be at the fair market value thereof without regard to the provisions of section 423e of title 43, United States Code.

(h) Notwithstanding any other provisions of the Federal Reclamation Law to the contrary, a landholding, including any lands in excess of the acreage limitation applicable to such landholding, may be acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgage, by inheritance, or by devise, and (1) if acquired by other than a qualified recipient, such landholding shall be furnished with a water supply temporarily for a period not exceeding ten years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof is completed to a qualified recipient, and (2) such lands of the landholding as were not held in excess status at the time of such acquisition may thereafter be sold at the fair market value of the property without regard to the provisions of section 423e of title 43, United States Code, or section 3 of this Act.

(i) A landowner which is a corporate or other trustee may collectively hold in a fiduciary capacity land eligible to receive a water supply notwithstanding any other provisions of the Federal Reclamation Law to the contrary: Provided, That with respect to such holding, the beneficiary or beneficiaries thereof are in compliance with the acreage limitation provisions of the Federal Reclamation Law.

(j) Any provision of the Federal Reclamation Law which establishes a limitation on acreage to be served with a water supply to the contrary notwithstanding, a landholding of any limited recipient which consists of one hundred and sixty acres or less shall be considered to be within the acreage limitation of the Federal Reclamation Law.

RECORDABLE CONTRACTS

SEC. 9. Other provisions of this Act notwithstanding, and only with respect to excess lands subject to recordable contracts between the United States and owners of such lands as had been entered into prior to the effective date of this Act, the period of time during which such owners may dispose of the lands thereby encumbered shall remain as specified in such contracts: Provided, however, That the period of time during which the Secretary of the Interior has suspended, or in fact not generally processed approvals of dispositions of excess lands, whether by virtue of court order or otherwise, shall be added to the period provided by such contracts.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act but only at the request of said other party.

(b) Determination made by the Secretary pursuant to the authority granted in this Act shall be in accordance with the provisions of the Administrative Procedure Act, chapter 5 of title 5, United States Code.

(c) Any non-Federal party to a repayment contract with the Secretary relating to a Reclamation project may obtain validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal Reclamation Law by making application therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and within ninty days from the date on which he receives such application shall transmit it to the Congress together with his comments and recommendations. Unless the Congress by joint resolution disapproves the application with ninty days from the date on which it receives the Secretary's transmittal, the application shall be approved and the provisions shall be considered to be validated.

(d) If lands in excess of the acrege limitation of Federal Reclamation Laws have not been disposed of at the end of the recordable contract period, power of attorney shall vest in the Secretary who shall sell such lands by lottery or other impartial selection only to qualified receipts according to such reasonable rules as he may establish. In such sales the Secretary shall make every effort to provide opportunities for the acquisition of landholdings of varying financially and economically feasible size.

CONSENT TO SUE

SEC. 11. In addition to any other remedy available in law or equity, any party to a contract with the Secretary of the Interior providing for the deliver of agricultural water supplies may bring an action in the United States district court for the district in which the project is located for mandatory injunctive relief to reform such contract in accordance with the terms of any written representation concerning the application or interpretation of the Federal Reclamation Law or contracts made by the Secretary or his representative to such party or his predecessor in interest. Exclusive jurisdiction for such suit is hereby vested in the United States district court. If the court finds, on the basis of the evidence submitted, that the party would not have entered into the contract but for the written representations made by the Secretary or his representative, which were relied on by the water users, then the court shall order the Secretary to reform the contract to conform with the representations and the contract, as reformed, shall be considered valid as of the date of the written representation.

REPORTING

SEC. 12. Any contracting entity subject to the acreage limitation of Reclamation Laws shall compile and maintain such records and information relating to land ownership, leasing, water supply and use, land use, cropping, financial transactions including transfers of interest in lands which are reasonably necessary to to implement this Act and the Federal Reclamation Law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

2. Amend the title so as to read: "A bill to amend and supplement the acreage limitation and residency provisions of the Federal Reclamation Law, as amended and supplemented, and for other purposes.".

PURPOSE OF THE MEASURE

The purpose of S. 14 is to provide a modern statement of congressional policy on several aspects of Reclamation Law, to resolve ambiguities, and to conform the law to the current practical considerations of farm practices and economics. As amended, S. 14 clarifies and updates the provisions of Federal Reclamation Law placing a limitation upon the acreage in a single ownership which is eligible to receive a water supply from a reclamation project, repeals the requirement for a water user to reside on or in the vicinity of his land holding, clarifies and restricts the exception of leased lands from the acreage limitation, and defines and updates several other provisions of the Reclamation Law.

SUMMARY OF MAJOR PROVISIONS

As amended, S. 14 addresses several major issues related to the recla-mation program and in some instances would mandate significant departures from past or present practice. Major issues and related provisions of the bill are briefly described as follows:

ELIGIBILITY

Section 2 establishes that a recipient of water for irrigable land (or "qualified recipient") would be an individual along with his dependents or a small corporation benefiting 25 individuals or less. A "limited recipient" would be any legal entity benefiting more than 25 individuals.

ACREAGE LIMITATION

Section 3 raises the basic acreage limitation from 160 acres to 1,280 acres for a qualified recipient. Section 2 provides that leased as well as owned land will be included in arriving at the total acreage subject to the acreage limitation, and that the total acreage of a qualified or limited recipient will be so limited regardless of whether or not the lands may be located on different projects.

LEASING

Section 7 defines the acreage limitation application to the leasing of lands served with water by a Federal reclamation project.

RESIDENCY

Section 5 of the bill would repeal the residency requirement of Reclamation Law.

SALES OF EXCESS LANDS

Section 10 provides for the use of a lottery or other impartial mean for sale of excess lands for which power of attorney has vested in the Secretary at the expiration of a recordable contract.

PAYOUT

Section 6 of the bill provides that the acreage limitation would ceas to apply upon repayment of the construction costs owed to the Federa Government by water users on a Reclamation project.

SPECIAL EXEMPTIONS

Section 8 of the bill provides that religious or charitable organiza tions, Corps of Engineers projects, and the Imperial Irrigation Dis trict in California, are exempt from the acreage limitation of Federa Reclamation Law.

BACKGROUND AND NEED

The basic Federal Reclamation Law was enacted in 1902 (32 Stat 388). It has been frequently amended and updated since, and the bod of statutory law presently referred to as "the Federal Reclamation Law" fills three thick volumes encompassing all or parts of hundreds of individual public laws.

The initial purpose of the Reclamation Act, which was an outgrowth of the earlier Homestead and Desert Land Entry Acts, was to establish a program of Federal financial assistance for water resource development projects which were necessary if settlers were to establish irrigated farms on the arid public lands west of the hundredth meridian. The Reclamation program was carried out initially by the Reclamation Service which is now the Bureau of Reclamation in the Department of the Interior.

The program has evolved through the decades and is now a major water resource development program involving major river basins and multi-purpose projects providing hydro-electric power, municipal and industrial water supply, fish and wildlife conservation, flood control, and public recreation in addition to the original irrigation purpose. Nevertheless, irrigated agriculture continues to be a principal and substantial aspect of the Reclamation program. In 1977, the latest year of record, the Reclamation program supplied a full water supply to nearly 5 million acres and a partial or "supplementary" water supply to over 6 million additional acres. This acreage is distributed over about 176 separate Reclamation projects and about 146,000 individual farms. It represents about 3 percent of the Nation's farmland and 25 percent of its irrigated farmland. The gross value of crops from Reclamation farms in 1977 was about $4.4 billion.

Under modern Reclamation Law the irrigation water users sign contracts with the Secretary of the Interior agreeing to repay the portion of the project investment costs allocated to the irrigation function over a fixed period (usually 40 years) without interest. In most instances, moreover, the repayment is limited to an amount less than the full irrigation allocation which is the computed "repayment capacity" of the farmers, and the costs in excess of that capability are returned to the Treasury by electric power or municipal water revenues from Bureau projects.

From the outset of the Reclamation program, and up to the most recent project authorizations, one consideration of Federal assistance to irrigated agriculture has been the "acreage limitation" concept. The original limitation was stated as follows in Section 5 of the Act of 1902:

> No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land. . . .

The amount of land was a direct extrapolation of the limit on a homestead entry, and projects which were built to irrigate public lands involved homesteading provisions for new settlers as well as project repayment.

Over the 77 years of the Reclamation program, the acreage limitation provision has been restated in statutes on numerous occasions and several statutory modifications, amplifications and specific exemptions have been enacted. Moreover, administrative practices in the implementation of the law, judicial decisions, and administrative interpretations have greatly amplified the original concept.

The complexity of the management of scores of diverse projects in 17 States, and the essential scarcity of statutory guidance, have led to contradictions in the implementation of the acreage limitation over the years. There have also been rather overt differences among the policy attitudes of the many Interior Secretaries historically responsible for enforcement. Current acreage limitation policy is a combination of statutory and judicial law, precedent, tradition, equity, and the practical limitations upon effective enforcement.

In general, the Bureau of Reclamation and the Secretary have interpreted Reclamation Law on a case-by-case basis and through series of legal opinions and Secretarial instruction. On August 1976, pursuant to a case brought by the National Land for People, nonprofit organization, the U.S. District Court ruled that the Bureau had not complied with the Administrative Procedures Act and enjoined the approval of sales of excess lands in the Westlands Irrigation District pending promulgation of rules and regulations.

On August 25, 1977, the Bureau of Reclamation published proposed regulations covering the administration of the Reclamatio Law. The regulations were believed by many Western irrigatio interests to be severe interpretations of the law, and in several respects were in contradiction with current administrative practice.

The promulgation of the regulations was subsequently injoined subject to the completion of an environmental impact statement which i presently being prepared. The purpose of S. 14 is to provide a moder expression of congressional policy regarding Reclamation Law t resolve the many controversies which will otherwise result from th implementation of regulations.

Legislative History

During the 95th Congress, several measures including legislatio identical to S. 14 were introduced in the Senate. Hearings on t measures were held by the Committee on Energy and Natural R sources on April 12 and 13, 1978, at which time testimony was receiv from Administration and public witnesses. Consideration of the legi lation was not completed prior to adjournment of the 95th Congre

Other than S. 14 the following bills to amend the Federal Reclam tion Law or otherwise change the administration of the reclamati program were introduced in the Senate during the 96th Congress a were referred to the Committee on Energy and Natural Resourc S. 386, S. 633, S. 654, S. 672, S. 718, and S. 735.

S. 14 was introduced on January 15, 1979 by Senator Church, a Senators Hatfield, Packwood, Bentsen, Laxalt, McClure, Melcher, a Baucus have joined as cosponsors. On March 20, the Administrati submitted a favorable report on S. 14 with suggested amendmen On March 22, a hearing on S. 14 was held before the Subcommittee Energy Research and Development at which time testimony was ceived from Administration and public witnesses. On June 20, measure was considered by the Full Committee, and it was orde reported with amendments on June 21, 1979.

Similar legislation is presently pending before the House Comm tee on Interior and Insular Affairs.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 21, 1979, by majority vote of a quorum present recommended that the Senate pass S. 14, if amended as described herein.

The roll call vote on reporting the measure was 12 yeas, 3 nays as follows:

Yeas	*Nays*
Jackson	Metzenbaum
Church	Tsongas
Johnston	Bradley
Ford	
Matsunaga	
Melcher	
Hatfield*	
McClure	
Domenici	
Stevens*	
Bellmon*	
Wallop*	

COMMITTEE AMENDMENTS

The Committee amended S. 14 to strike all after the enacting clause and insert a substitute text, and to amend the title to reflect a minor technical correction.

Aside from technical, clarifying and conforming amendments, the Committee's substitute text made the following changes:

A new Section 3(a) was inserted to clarify the scope of the application of the Federal Reclamation Law.

Section 3(d), as reported, was amended to provide 3 years rather than 1 year for lands in excess of the acreage limitation under the provisions of this bill to be placed under recordable contract.

A proviso was deleted from Section 4 which would have limited the acreage equivalency concept to lands in areas having less than a 180-day frost free growing season.

Section 6, providing for the termination of the acreage limitation upon repayment of construction charges, was amended to authorize the option of adopting a repayment schedule which is accelerated beyond the contractual schedule or the option of a lump sum payment of the remaining unpaid construction charges as means of terminating the acreage limitation upon the lands of the contracting entity.

Language was added to Section 6 providing that indebtedness under Rehabilitation and Betterment loans would continue the application of the acreage limitation, however the option would be provided to either terminate such loans by early repayment or to pay interest on the portion of such loans attributable to water service for excess lands. In either such option the acreage limitation would not apply.

Section 7, relating to the application of the acreage limitation to leased lands was amended to exempt lands under leases with terms of one year or less without rights of renewal from the limitation and to provide a full ten years to bring presently leased lands within compliance with the acreage limitation.

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*Indicates voted by proxy.

Section 8 was revised (1) to delete language restricting the Secretary's administrative authority to deliver water to excess lands; (2) to restrict the language exempting charitable and religious organizations from the acreage limitation to provide such exemption only so long as the produce or proceeds of sales of produce from such lands are directly used for charitable purposes; (3) to add language amending an existing exemption for State-owned lands leased for revenue to remove the existing 25-year limitation on such arrangements; (4) to add language exempting the Imperial Irrigation District of California from the acreage limitation; (5) to add language clarifying that the acreage limitation of Reclamation Law does not apply to Corps of Engineers projects unless otherwise explicitly provided by Federal statute; (6) to add a provision exempting lands temporarily supplied with water in unusually wet years and exempting leases of 1 year or less for purposes of managing water in drought periods from the acreage limitation; (7) to add a provision exempting minor tracts of land from the acreage limitation; (8) to add a provision establishing a 10-year period during which the price of subsequent sales of previously excess lands shall be approved by the Secretary; (9) to add a provision requiring excess lands acquired by foreclosure or other process of law to be furnished with a project water supply for 10 years; (10) to permit formerly excess lands which are not excess at the time of acquisition through foreclosure or other process of law to be sold thereafter at fair market value; (11) to add a provision exempting trustees holding lands in a fiduciary capacity from the acreage limitation if the beneficiaries of such landholdings are in compliance; and (12) to add a provision making it clear that entities which do not meet the requirements of a "qualified recipient" under this bill but which are currently receiving a water supply from a Reclamation project may continue to receive such water for a landholding of no more than 160 acres.

A new Section 9 was inserted extending the terms of any recordable contracts currently in effect by the equivalent period of time of the moratorium on voluntary land sales presently imposed by court order and Secretarial decision.

A new subsection was added to Section 10 (formerly Section 9) providing a procedure to validate the terms of any existing contract between the Secretary and a water-using entity relating to the acreage limitation.

A new subsection was added to Section 10 (formerly Section 9) to provide that sales of excess lands sold by the Secretary under his powers of attorney upon expiration of recordable contract terms shall be by lottery or other impartial selection of buyers and land holdings of varying sizes shall be offered for sale.

A new Section 11 was added to grant permission for contracting entities to sue the Secretary to reform contracts if the courts find that written representations made by the Secretary or his representatives were relied upon by contracting entities concerning the interpretation of Reclamation Law.

Section-by-Section Analysis

Section 1.—This Act is made amendatory to and supplementary of the "Reclamation Law." This has been a traditional means of extending Reclamation Law and it thereby invokes all of the existing provisions as well as administrative and judicial interpretations. It is the intention throughout this measure to preserve all such existing statutes and interpretations where they do not conflict with the provisions of this measure.

Section 2. (a)—Self explanatory.

Section 2. (b)—The term "individual" is defined as a man and wife along with other dependents as defined according to the Internal Revenue Code in order to provide a standard for determining the number of acreage limitation landholdings which could be held by a family group. In general, a head of household along with his legal dependents would be entitled to one landholding of 1,280 acres. The existing joint ownership concept of allowing two units for a man and wife would be amended. Other adults and independent children would be entitled to separate acreage units.

Section 2. (c)—The term "qualified recipient" is a new, all inclusive term for purposes of applying the new provisions of this bill. In addition to individuals the term "qualified recipient" would include small corporations.

Section 2. (d)—This section defines a new category of recipient eligible to continue receiving a water supply from a Federal Reclamation project. This section, in conjunction with Section 8(j) and conforming language, has the effect of allowing stock corporations who are presently receiving water to continue receiving water sufficient for 160 acres.

Section 2. (e)—The term "landholding" is intended to mean the area of land receiving water from a Federal Reclamation project which is farmed by any party which either owns such land or leases it from another owner. This is the acreage which would be limited. There is no distinction made in the basic acreage limitation between leased or owned lands. Furthermore, the "landholding" would be the total of all such project-served acreage held by any party on one or more projects.

Section 3. (a)—This section clarifies the application of the Federal Reclamation Law to lands specifically included within an authorized Federal Reclamation project and served with a water supply pursuant to a contract. The objective is to make clear that people who may be incidentally benefitted by a project are not subject to the limitations of the Federal Reclamation Law.

Section 3. (b)—This section establishes a new acreage limitation for a "landholding" as defined above. Note that this provision overrides the existing law only where a "qualified recipient" is concerned, and provides that a "landholding" may be 1,280 acres. The existing acreage limitation law would continue to apply to any landholder who is a limited recipient. (i.e. a large corporation).

Furthermore, the existing provisions of law would continue to govern where specific exemptions from the acreage limitation have been previously legislated. These existing provisions would include certain specific projects and the application of the acreage limitation to projects receiving loans under the Small Reclamation Projects Act loan program.

Section 3. (c)—This section applies the definition of a "landholding" to existing acreage limitations as well as to the limitation in S. 14. It insures that a landholder who is not a "qualified recipient", is bound by the limitation on the total of all lands *owned or leased* which receive water on *one or more* projects.

Section 3. (d)—This section recognizes that the restrictions applied by S. 14 with regard to leased lands and multiple-project ownerships will result in lands becoming excess which might not have been considered to be excess as the law has been administered prior to enactment of this measure. Such lands are required to be placed under recordable contract within 3 years. They will then be treated as all other excess lands presently under such contracts.

Section 3. (e)—This section provides a 10-year disposal period for lands placed under new recordable contracts pursuant to (d) above. It therefore would provide 10 years for disposal of multi-project ownerships in excess of 1,280 acres or ownerships in excess of 160 acres if held by parties who are not "qualified recipients."

Section 3. (f)—This section permits the Secretary to limit the number of landholdings which a hired manager may operate in the service of one or more qualified recipients or landholders. It is intended to avoid the possibility that a management contract arrangement could be substituted for a lease and used to transfer the benefits of several landholdings to one "manager".

Section 3. (g)—This is a savings clause to clarify the intent of S. 14 to preserve existing Reclamation Law except as specifically amended.

It is important to remember in interpreting S. 14 that, unless specifically changed therein, the existing Reclamation Law continues to apply, and whatever latitude the Secretary of the Interior or the courts may have to alter implementation remains. Passage of S. 14 will not change or otherwise affect the Administration by the Secretary of the Small Reclamation Projects Act of 1956 (70 Stat. 1044 as amended), the Emergency Fund Act of 1948 (62 Stat. 1052) or such other authorities of the Secretary not specifically addressed.

Section 3. (h)—This is a savings clause to preserve statutory exemptions from the acreage limitation where they now exist.

Section 4.—This section provides for the application of the Class 1 equivalency concept on a programwide basis; the Committee intends that the Bureau of Reclamation will follow the practices and procedures implementing this provision which have been used in establishing Class 1 equivalency on projects for which the concept has already been authorized by previous Acts.

Section 5.—This section abolishes residency as a requirement in order to be eligible to receive water for a landholding. It is the intention of this section to remove any requirement for residency in regard to any "landholdings" which are involved with the Reclamation Law in any regard.

Section 6. (a)—This section provides that when a contracting entity representing landholders has repaid to the Federal Government the amount of construction costs required to be repaid by its contract, in accordance with the repayment schedule contemplated in the contract, the acreage limitation will cease to apply to the landholdings. Contract provisions which permit early, accelerated, or lump sum repayment would be honored under this section if they have already been validated by the Congress or if they are validated under the provisions of subsection 10(c) of this Act.

This section further provides that a lump sum repayment or an accelerated repayment schedule will be adopted in other cases if applied for by the contracting entity.

If a contracting entity owes construction charges under a contract entered into pursuant to the authority of the Rehabilitation and Betterment Act, the acreage limitation would continue to apply during the term of repayment of such indebtedness. Lump sum or accelerated repayment of such debts by the contracting entity would be authorized and in addition the contracting entity could choose to repay the portion of the Rehabilitation and Betterment debt associated with excess lands with interest as an alternative to continuing the acreage limitation where such indebtedness was the sole remaining reason for application of the limitation.

Section 6. (b)—This section provides that upon repayment of contractual construction charges, the Secretary of the Interior shall, at the request of a landholder, document the termination of the acreage limitation as it applied to that landholding.

Section 7. (a)—This section clarifies the intent of S. 14 that the lands which a lessee leases from another and farms as part of his operation are charged against such lessee's landholdings, as well as the owner-lessor's landholding, for purposes of the acreage limitation. The net result of this provision would be that a qualified recipient who is not actively farming could own up to 1280 acres and lease it to one or more other persons who would farm it as part of their landholdings. However, a limited recipient could own and lease out only 160 acres under existing law as amended by S. 14.

Section 7. (b)—This section provides that water may be delivered to leased lands held by a lessee in excess of 1,280 acres when the lease is for 1 year or less and such lease does not convey to the lessee a right of renewal. However, this section is not meant to be construed that the lessee may not lease the same land in the following or subsequent years.

Section 7. (c)—This section provides that delivery of water to leased lands in excess of 1,280 acres pursuant to section 7(b) may begin immediately upon filing of the required notice of the lease with the Secretary of the Interior. However, such right of delivery may be interrupted upon a determination by the Secretary that the requirements of this section have not been met.

Section 7. (d)—The effect of S. 14 is that lands operated under lease will be treated as part of the landholding of the lessee and will henceforth come within the limitations of 1,280 acres for qualified recipients and 160 acres for limited recipients. There presently exist leaseholdings in excess of these limitations. This section explicitly provides that such lessees must come into compliance within 10 years.

Section 8. (a)—This section provides that the Secretary shall continue to deliver water to Reclamation project lands held by nonprofit charitable or religious organizations as of January 1, 1978, without regard to the acreage limitation. The conditions for such continued service are that the title to the lands must remain unchanged and either the agricultural produce from the lands or the proceeds of the sales of such produce must be used directly for charitable purposes. The intent of the second condition is that such lands could not be operated for general revenue, but that the sale of produce from such lands would be permissible if the proceeds of such sales are directly used for charitable purposes.

Section 8. (b)—The Act of July 7, 1970 (43 USC 425b) exempts certain State-owned lands from the acreage limitation. Section 3 of that Act provides that a State may lease lands for revenue so long as the lands of each leaseholder comply with the acreage limitation. The existing law limits such leasing arrangements to a period of 25 years from the 1970 date of enactment. This section would remove the 25-year limitation upon the States.

Section 8. (c)—This section provides a blanket exemption from the acreage limitation of the Federal Reclamation Law for the lands of the Imperial Irrigation District of California. This district was served with water by the Boulder Canyon Reclamation project authorized in 1928. The water users received formal assurances from the Secretary of the Interior in 1933 that the acreage limitation did not apply, and no effort was made by the Federal Government to impose the acreage limitation until 1964.

The Committee believes that the land patterns which have evolved based upon investments and individual decisions which relied upon Federal behavior of nearly 40 years duration should not now be overturned and that the economic impacts upon the landowners involved of belated application of the acreage limitation would be inequitable. The residency requirement, of course, would be removed by the general provision of Section 5.

Section 8. (d)—This section clarifies the congressional intent that the acreage limitation of Reclamation Law does not apply to projects constructed by the U.S. Army Corps of Engineers unless an Act of Congress explicitly makes the Reclamation Law applicable to a particular project.

Section 8 of the Flood Control Act of 1944 provided that dams constructed by the Corps of Engineers thereafter "may be utilized for irrigation purposes", and the Act authorized the Secretary of the Interior to become involved in such projects "under the provisions of the Federal Reclamation Laws". The wording of the section is ambiguous and has given rise to sweeping controversies concerning the application of the Reclamation Law to agricultural lands which are benefited by dams constructed by the Corps. Subsequent court decisions and sporadic efforts on the parts of successive Secretaries of the Interior to consumate contracts with various beneficiaries of Corps projects have served to create a shadow extending to all agricultural lands which are involved with Corps projects.

The intent of Section 8(d) of S. 14 is to make clear that Section 8 of the Flood Control Act of 1944 did not, in and of itself, make the Reclamation Law applicable to any specific project. The specific legislation dealing with the project in question must be consulted to determine the applicability of the Reclamation Law. S. 14 sets forth three criteria for making such a determination and declares that the Reclamation Law shall not apply unless: (1) by explicit statutory languag the Congress has designated the project as a Reclamation project or has integrated it with or made it a part of a Reclamation project, or (2) in addition to the project works constructed by the Corps, the Secretary of the Interior pursuant to the Federal Reclamation Law has also provided project works for control or conveyance of an agricultural water supply to the lands in question, or (3) the Congress has by statute explicitly made the Reclamation Law applicable to the project or lands in question.

It is the intention of the Committee that the Corps exemption shall apply to the projects on the Kings, Kern, Kaweah and Tule Rivers in California authorized by the Flood Control Act of 1944 (58 Stat. 887). Furthermore, it is the intention of the Committee that the criteria specified in subparagraphs (1), (2) and (3) shall not be construed to apply to the projects constructed on those rivers under the authority of that Act.

It is the general intent of this section to eliminate the shadow of applicability of the Reclamation Law to Corps of Engineers projects in any case in which the intent of Congress concerning such applicability is not clearly and explicitly set forth in statutory language.

Section 8. (e)—This section exempts from the acreage limitations, lands which receive a water supply in two circumstances.

The first such circumstance applies to lands which might in unusually wet years be capable of being served with an irrigation water supply involving the use of Reclamation project facilities, but which would have no dependable water supply upon which a continuing irrigated farming operation could be economically based, and lands which may be capable of short term water service during flood flows only.

The acreage limitation, the Committee believes, in such instances should not act as a deterrent to putting available water to beneficial use. The Committee notes as examples the experience of the Madera, Chowochilla and La Branze Districts in the Friaut Division of the Central Valley Project in California.

The second circumstances covered by this section is that in which leases of 1 year or less are used as a management arrangement among landholders to permit the consolidation of partial water supplies in unusually dry years.

Again, the Committee believes that the acreage limitation should not act to restrain prudent water conservation in emergency situations. The Committee notes the example of the Arch-Hurley District in New Mexico, which has experienced several years of low water availability.

Section 8. (f)—This section permits the delivery of water to minor tracts of land in excess of a landholder's acreage limit if the Secretary determines that such tracts could not otherwise be viably operated.

Section 8. (g)—This section provides that when excess lands are sold to qualified recipients who have landholdings in conformance with the acreage limitation, water service to such formerly excess lands will for 10 years be conditioned upon an agreement on the part of the landowner that any resale must be at a price reflecting no more than the landowner's initial cost increased by the subsequent rate of increase of the Consumer Price Index plus the market value of any improvements made by the landowner.

The section also provides that formerly excess lands may be sold at fair market value after a period of 10 or more years during which such lands have been held in nonexcess status.

Section 8. (h)—This section provides that a water supply may be delivered to lands which are acquired by foreclosure or other process of law, by conveyance in satisfaction of a mortgage, by inheritance, or by device. Water may be provided for not to exceed 10 years regardless of whether or not the entity acquiring such lands is a qualified recipient and without regard to the excess status of such lands, if any.

If such lands were not held in excess status by the immediate former owner at the time of the acquisition, they may be resold at any time subsequent to the acquisition at fair market value. If they were held in excess status by the immediate former owner, they must be resold at an approved dry land price in the same manner as required by Reclamation Law of sales of excess lands in general.

Section 8. (i)—This section provides that a trustee may hold lands in trust which collectively exceed the acreage limitation without regard to the acreage limitation or the requirement to be a qualified recipient. The section provides, however, that in order to exercise this exemption, the trustee must be acting in a fiduciary capacity and the beneficiaries of the several trusts must individually be in conformance with the acreage limitation. In other words, the landholdings are not exempted from the requirements of Federal Reclamation Law except for relief from any legal impediments to the involvement of the trustee.

Section 8. (j)—This section provides that a "limited recipient" as defined in this Act will continue to be entitled to receive a water supply for a landholding limited to 160 acres as it would be under existing law. A "limited recipient" is a legal entity benefiting more than 25 individuals.

Section 9.—This section provides for an extension of the 10-year time period for disposal of excess lands subject to existing recordable contracts which is commensurate with the period of time for which there has been a moratorium on the approval of sales of such lands by the Secretary of the Interior. The effect would be to allow additional time for the disposition of such lands and the extension of the period of time that the lands would be eligible to receive water service prior to such disposal.

Section 10. (a)—This section authorizes and directs the Secretary to amend existing contracts to conform to the provisions of this bill if the other parties to the contracts request such amendments. It is the intention of this provision that the Secretary does not have the latitude to deny any such request nor does the amendment of any contract for this purpose afford any opportunity for renegotiation or unilateral amendment of such contract in any other regard than to conform to the provisions of this measure.

Section 10. (b)—This section would require the Secretary to issue appropriate notices and to adopt rulemaking procedures appropriate for the implementation of the authorities granted in this Act as they are set forth in the Administrative Procedures Act.

Section 10. (c)—This section addresses contracts entered into between non-Federal entities and the Secretary of the Interior containing provisions which provide for "relief" from, or are otherwise related to, the acreage limitation of the Federal Reclamation Law upon repayment of the amount called for in the contract. The courts have said that such contract provisions are generally invalid unless the contract has been submitted to the Congress for review pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U.S.C. par. 485). The effect of this section would be to allow, at the initiation of the water user, validation by the Congress of such contract provisions which have not otherwise been validated following a review by the Secretary of the Interior.

Section 10. (d)—This section provides that excess lands which are sold by the Secretary by power of attorney after expiration of the 10-year recordable contract period (which is a procedure of existing law) shall be sold only to qualified recipients and by impartial selection of buyers. The Secretary shall include in such sales of excess lands parcels of various sizes, smaller than 1,280 acres and especially very small parcels where he determines that such parcels would be financially and economically viable farm units. The purpose of this provision is to facilitate the initiation of new family farm units at minimal investment costs. No authority is granted to apply such restrictions to sales made by owners within the 10-year recordable contract period.

Section 11.—Repayment contracts between water users and the Secretary are the usual vehicle for the application of acreage limitations to the project lands. Some such contracts have explicit provisions which were questioned by the courts on the grounds that they exceeded the Secretary's authority. Section 10(c) of this Act provides for the congressional validation of such provisions at the request of the water users.

In some instances, written representations were made to the water users concerning the interpretation of the Reclamation Law or of contract provisions which may have influenced the water users' decision to consumate the contract. Section 11 provides access to the courts for parties seeking to reform such contracts in accordance with the terms of such representations. The conditions of this permission are clear in the text.

This right would be applicable to the contractual agreements, including any amendments to contracts, which were in force upon the date of enactment of this Act.

Section 12.—This section is self-explanatory.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 5, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 14, the Reclamation Reform Act of 1979, as ordered reported by the Senate Committee on Energy and Natural Resources, June 21, 1979.

Based on this review, it is estimated that no additional cost will be incurred by the federal government as a result of enactment of this bill.

Under existing federal reclamation law, individual holdings of land eligible for irrigation water are limited to 160 acres, and lands in excess of the limit must be disposed of by landholders within a suitable period of time. Although the limitation has not been aggressively enforced by the Bureau of Reclamation, the majority of landholders are in compliance with the law. S. 14 would increase the acreage limitation to 1,280 acres and would apply the limitation to leaseholders not specifically covered under current laws.

The cost of enforcing the limit specified in the bill is not expected to exceed the cost of enforcing the proposed regulations implementing current law, which were published on August 25, 1977 by the Department of the Interior. These regulations reflect the Bureau of Reclamation's intention to enforce strictly existing law rgarding acreage limitations and excess lands. If the Congress does not enact this or a similar bill, the proposed regulations are expected to go into effect by fiscal year 1982, after the environmental impact statement on the proposed change in regulations is completed. Such a statement is necessary for any rule change that might be promulgated, including those enforcing S. 14. Before new rules go into effect, during fiscal years 1980 and 1981, the Bureau will begin to collect the data necessary to enforce an acreage limitation. It will be necessary to have the information on ownership of land receiving water from reclamation project both for the administration's proposed regulations and for regula tions carrying out the provisions of S. 14. The President's budge request for 1980 included $2.4 million for this purpose.

Other costs associated with the acreage limitation are mainly fo staff to evaluate data received, to decide when the law is not bein observed and to enforce compliance with the law. These functio must be performed under either acreage limitation. While some sa ings in enforcement costs may result under S. 14, because there wi be fewer violators of the higher limitation, any savings are likely be offset by the cost of applying the law to the leaseholders not no covered by reclamation law and by the cost of renegotiating agre ments with irrigators to conform with the new provisions in law. a result, no significant budget impact is anticipated as a result of S. 1

Should the Committee so desire, we would be pleased to provi further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director

REGULATORY IMPACT EVALUATION

In compliance with paragraph 5 of Rule XXIX of the Stand Rules of the Senate, the Committee makes the following evaluat of the regulatory impact which would be incurred in carrying out provisions of S. 14:

It is not possible to predict how many of the approximately 596 people and 146,000 farms on 176 operating reclamation projects wo be affected by implementation of S. 14. Section 12 of S. 14 specific requires the submittal by contracting entities of certain information and Section 7 requires the submittal of information by lessees or lessors for purposes of administering the measure. Some of the information required by S. 14 is already available from the various contractors; however, S. 14 would require the submission of additional material heretofore not required in the administration of the reclamation program.

It is not easily ascertained what the economic impact of the new reporting requirements contained in S. 14 would be since there is insufficient information available as to the present status of landholdings and farming activities on project lands. The reporting requirements of this bill, in addition to providing for compliance with the bill will provide, for the first time, a relatively complete picture of the ownership and leasing patterns on reclamation project lands.

Pursuant to S. 14, there is the opportunity for contracting entities to achieve relief from the acreage limitations of Reclamation Law; the extent that this opportunity is utilized will have a direct bearing on the amount of reporting which is required; however, until such time as the pattern of land ownership and leasing is known, there is no way to estimate the economic or personal costs entailed with the adoption of S. 14.

In any event, the various transition periods provided for compliance with the new requirements of this measure will serve to mitigate the economic impacts it may have. Furthermore, it is the principal purpose of this measure to simplify and liberalize existing legal restraints and the overall impact of the measure will be to relieve many individuals from the regulatory burdens of acreage limitation and residency requirements and the economic burdens of legal action to defend against administrative interpretation of current ambiguous policies.

Executive Communications

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 14 are set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C. March 20, 1979.

Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: This responds to your request for the views of this Department with respect to S. 14, a bill "To amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes."

The Department would support enactment of legislation containing provisions of that bill with amendments recommended herein.

THE BILL

S. 14 would allow for an acreage limitation under the Federal reclamation laws of twelve hundred eighty acres (1280) as the maximum

landholding of any qualified recipient eligible to receive Federal recl
mation project water. Qualified recipients would include an individu
his or her spouse, or dependents thereof as defined by the Intern
Revenue Code (26 U.S.C. 152), or any legal entity directly benefiti
25 persons or less, and that is a citizen of the United States and ow
or leases a landholding. The Secretary would be allowed to limit t
number of holdings receiving project water and managed by any pe
son on behalf of a qualified recipient. The Secretary would be requir
to designate, upon the request of a qualified recipient, an equivalen
formula for determining the acreage of a landholding which is eligib
to receive project water and which is the equivalent of 1280 acres
class 1 land for lands of lesser productive potential. The equivalen
policy would apply only to projects, units, or districts where the gro
ing season is 180 days or less. New acreage limitation provisions wou
apply within 1 year of enactment.

Residency would not be required of a qualified recipient. Multip
ownerships would be allowed for entities "directly benefiting"
persons or less. Leasing would be allowed within the acreage lim
provided, but new purchasers would be required to farm land for
years prior to leasing it. Existing leases as of January 1, 1978, wou
be recognized for the duration, or 10 years, whichever is shorter.

S. 14 would call for release from acreage limitation provisions
any landholding upon "payout" (completion of repayment) of
contract with the Secretary relating to delivery of water supplies.
exemption from legal limitations would be provided for charitable
religious non-profit organizations holding land as of January 1, 19
The Secretary would be required to amend existing contracts, u
the request of the holder, to conform to provisions of the bill
enacted.

DISCUSSION AND DEPARTMENTAL VIEWS

We will work with the format of S. 14 which covers the princi
issues; these primary issues are acreage, equivalency, residency, le
ing, payout, and timing of the application of new provisions. We p
pose numerous additions and amendments to S. 14, however.

STATEMENT OF PURPOSE

The Department strongly supports the original purposes of
Reclamation Act of 1902. We consider it important in this major le
lative effort to clearly reaffirm those purposes at this time. Co
quently, we propose in Section 2 of our amendments the addition
statement of purpose to S. 14 setting forth the major objective wh
we believe were embodied in the original Act and have continu
validity. Those purposes are: (a) to promote owner-operated fa
farms; (b) to provide opportunity for a maximum number of farm
on the land and for individuals to get a start in farming; (c) to
tribute widely the benefits of federally subsidized reclamation proje
(d) to preclude speculative gain in the disposition of excess lands;
(e) to provide for sound repayment practices from those recei
federally supplied water.

ELIGIBILITY

We would also add a separate section on eligibility (Section 4 of
amendments), setting forth as clearly and succinctly as possible t

classes of persons who would be eligible to receive reclamation project water. Our criteria for eligible recipients of project water reflect our view that the basic entitlement should center around the adult individual, without regard to family size, as has heretofore been the traditional practice. Joint ownerships would be permitted between two related or unrelated adults. Multiple ownership arrangements would be permitted, but would be limited to owners in an immediate family relationship with each other. This limitation represents an effort to recognize family multiple ownerships that have legitimate purposes but do not run counter to program purposes, and to exclude those more wide-open multiple ownerships that are more difficult to monitor and control and which tend to promote non-resident, non-participating, investor-type ownerships that are inconsistent with the purposes of the reclamation program.

RESIDENCY

The most significant of the eligibility requirements is residency, considered in Section 5 of our amendments. The Department considers a strong residency requirement to be the best means of assuring the owner-operated farms that are envisioned by the reclamation program. In this respect, we disagree with the position taken in S. 14 which would apparently do away with the residency requirement. We believe that the loose eligibility criteria provided in S. 14 would make it extremely difficult to monitor and manage the reclamation program to maintain consistency with program goals.

Section 5 of the Reclamation Act of 1902 requires that landowners receiving federally subsidized water be "bona fide residents" on the farm or in "neighborhood" of the farm, which has been historically defined as a maximum distance of 50 miles from the farm. We would reaffirm this requirement, while allowing some exceptions for such reasons as retirement or health.

We recognize that the residency requirement has not been enforced for 50 years, and hardships could be created if the requirement were reimposed abruptly. Consequently, we believe the requirement should be phased in gradually, and our aemndments apply the following transition rules.

New purchasers of reclamation project lands would be given a three-year grace period to become residents. They would be required to declare, by affidavit, their intent to become a resident within three years, and thereafter to become a resident within that time in order for their land to continue to receive project water. Affidavits would be monitored to achieve compliance. Our proposed amendments would allow, in addition to other sanctions, the cancellation of water deliveries for any lands involved in a fraudulent declaration.

Adult individuals who now own land but are not residents would continue to receive project water for the lands, and residency would be required only of new owners at the first transfer of title, however it occurs.

Multiple ownerships held by persons in an immediate family relationship (defined as those in a direct lineal relationship with each other, spouses, brothers and sisters) would not be required to meet residency requirements until the first transfer of title or shares, or the addition of new shareholders, however accomplished.

Corporations or other multiple ownerships holding lands receivi
project water whose owners are not in an immediate family relatio
ship would be given a 5-year transition period within which to me
requirements, to transfer ownership to eligible program participan
or to cease receiving project water.

In addition, we recommend that the residency requirement be au
mented by requiring owners and lessees to be substantially involv
in the farming operation. Criteria and standards for involveme
would be developed later in regulations. Such criteria would be mo
stringent than the IRS definition under which periodic vists suff
for "involvement."

ACREAGE LIMITATIONS

The Department-proposed amendments respecting the acreage li
itation (Section 6 of our amendments) agree in principle with the po
iton in S. 14 to expand the acreage limitation for lands held by o
owner eligible to receive project water. S. 14 would allow flat 1
acres (plus equivalency where authorized) owned or leased per qua
fied participant. The Department would allow a resident adult
receive project water on 320 acres of owned land with an additio
allowance for 160 acres of leased land, for a total of 480 acres (p
equivalency where authorized). In the alternative, as much as
acres could be leased by one individual receiving project water; a
combination of ownership and leasing totaling 480 acres per individ
provided ownership does not exceed 320 acres, would be permitt
Two adult individuals could receive project water on 640 acres of la
jointly owned, or 960 acres of land jointly owned and leased. So
husband and wife, or two unrelated adult individuals could rece
water on as much as 960 acres.

However, multiple family ownerships, such as family corporatio
joint tenancies, partnerships or trusts, where owners are resid
adults in an immediate family relation, could hold up to 960 acres
long as no more than 480 acres is owned and leased on behalf of
one resident adult owner. No additional entitlement for any form
ownership would be allowed for dependent children.

New acreage limitations would apply immediately to new purcha
of land, excess or non-excess. Eligible individuals having an enti
ment under current law that exceeds the limt applicable under
new bill (for instance families with a large number of depend
children) would be allowed to keep their current entitlement. N
limitations would apply on the first transfer of title or shares.

Lands currently under recordable contract would continue to rece
water for the duration of the contract.

We note a feature contained in Section 3(d) of S. 14 which wo
allow the Secretary to limit the number of landholdings that may
managed for a qualified recipient by another person. We believe
concept has merit but that we can achieve the same purpose thro
our definition of leasing, which includes management.

We believe our approach strikes a desirable balance between the
eral important objectives: maintaining the small owner-oper
farm; providing sufficient flexibility to allow for reasonable growt
owner-operated farms; allowing for the considerable variations in
farm economy; recognizing developments in farming technique

economics over the years; recognizing to a reasonable degree the results of the history of the reclamation program and the reliance built upon it. We do not believe that, based on current average ownerships throughout the program, the average ownership, norm, or common size of farm under our proposal, would approach the 960-acre figure. On the other hand, we think there are enough controls in our approach to prevent the establishment or continuation of large ownerships by absentee farmers, investors, and non-family corporations.

EQUIVALENCY

S. 14 would authorize the Secretary to apply an equivalency formula to acreage limits for districts having a growing season of 180 days or less. The purpose of equivalency is to help assure the viability of farms on project lands where productivity is less, and to assure that owners of less productive land within a given district would not be at a competitive disadvantage compared to owners of better lands in the district. We support the application of equivalency with the 180-day division, which would separate those projects where equivalency would be least needed or equitable from those where it may be necessary or desirable.

Our approach, contained in Section 7 of our proposed amendments would authorize the Secretary, at his discretion, to apply equivalency on a case-by-case basis, if requested by a district after a vote of the district. We prefer the case-by-case approach which is manageable and is consistent with past practice in the application of equivalency to particular projects. We do not believe a system-wide approach, advocated by some, would be manageable or equitable.

On projects where equivalency has been previously authorized, the amendments would allow the Secretary to reassess existing equivalency determinations to conform to the new overall standards of the amendments. The Secretary would retain discretion to determine whether application of equivalency to a given project or district would be appropriate.

A serious problem is present by the suggestion which has been made a number of times which would require the application of equivalency based upon the request of a single landowner. This provision could create serious inequities among landowners and would cause administrative havoc. We strongly recommend the application of equivalency only on the request of the district as a whole.

LEASING CONDITIONS

We support the purpose of section 7 of S. 14, which would place limitations on leasing. Leasing can be a worthwhile device for providing access for new farmers to the reclamation program and for providing extra income to a small farmer. We also recognize that leasing has been a principal device for circumventing the requirements of the law. Consequently we believe leasing should be carefully monitored and controlled to avoid abuses.

S. 14 would apply acreage limits to leased lands. In Section 9 of our amendments, we would amend Section 7(a) of S. 14 to require that both acreage and residency limitations should apply to leasing. Section

7(b) of S. 14 would require that new purchasers of land after January 1, 1978, would have to farm the land for 10 years before leasing it (subject to hardship exceptions). We support this provision and would adopt it. Section 7(c) would phase in application of new acreage limitations to leased land for a period of the expiration of an existing base, or 10 years, whichever is shorter. We would revise the requirement to phase in all applicable limitations to lessees of leased land for a period of 5 years or the expiration of an existing lease, whichever is longer. Phase in of new limitations for lessors would be determined, of course, by rules applicable to owners, previously discussed.

CONTRACT APPROVALS AND EXEMPTION FROM ACREAGE LIMITATIONS

S. 14, Section 6, would apply a blanket exemption from acreage limitations to all landholdings upon completion of the repayment required by the terms of any contracts with the Secretary relating to project water for agricultural use.

The case of *United States* v. *Tulare Lake Canal Co.* (553 F. 2d 1003; 9th Cir., 1976), ruled that provisions in contracts between the Bureau of Reclamation and water-user organizations containing so-called "payout clauses," which exempt water-user organizations from the reclamation excess land laws upon payment of their contract obligations, are invalid. Twenty-two contracts containing such provisions had previously been ratified by the Congress, and it is the Department's view that such ratification has removed for those contracts the objection found in Tulare Lake.

Our amendments would provide Congressional ratification of existing district contracts containing so-called "payout" clauses.

We do not support "payout" contracts as a matter of Departmental policy. During a brief phase in the administration of the reclamation program in the early 1950's, "payout" contracts were accepted policy and a number of such contracts were written. Because contracts containing payout clauses were signed in good faith by the districts concerned and had been approved by an opinion of the Solicitor, and because payout provisions were reduced to a binding written contract in some cases, we believe they should be horored. We would not sign any more such contracts.

We would clarify in the bill and retain the discretion that now exists for the Secretary to grant acreage exemptions upon payment of a district's obligation over the full term if the Secretary finds that a pattern of family farms has been established. We would not honor any representations not reduced to a contract. To do so would set a very dangerous precedent, would cause serious administrative difficulties, and would be inconsistent with the *Tulare Lake* decision. Nor do we support recognition of representations to individual farmers. This would result in the inequitable and anomalous situation where farmers who have failed to comply are given a break while neighboring farmers in the same district who have complied all along would be required to continue to comply.

About sixty-five district contracts have not been ratified to remove the problem posed by the recent *Tulare Lake* decision. The bill would attempt to cure that defect in those outstanding contracts by suppl ing Congressional ratification, which would apply to the updated list of contracts attached hereto. Any exemption granted, by contract or otherwise, would be only upon full payment over the normal term of the contract, and the land laws would apply and be enforced in the meantime.

The issue has been frequently raised as to whether prepayment of the contractual obligation would warrant an exemption. We are strongly opposed to such a policy, since it would negate the purposes of the reclamation program, and we do not think it is authorized under existing law.

DISPOSITION OF EXCESS LANDS

Section 12 of S. 14 does not address the issue of disposition of excess lands. Our amendments attempt to reduce speculation and provide for equitable distribution of excess lands. It would limit the classes of eligible purchasers from whom the seller could choose to three groups, immediate family members, tenants and employees of more than 10 years standing, or adjoining neighbors. This classification is an attempt to recognize, on the one hand, several basic groups which experience has shown may have a reasonable basis for a preference at purchasing available excess lands, and who, if otherwise eligible as landowners, should be encouraged by the law to participate. On the other hand, it is an attempt to keep the opportunity for purchase of excess lands open to as many people as possible. We feel that the classifications are manageable and supportable based on our experience at administering the program.

If a seller has not sold his excess lands to an eligible purchaser within the above groups by the end of the recordable contract period, power of attorney would vest immediately in the Secretary to sell the lands by lottery to an eligible purchaser. The Secretary would establish procedures and criteria for sale in regulations. The Secretary would retain discretion as to whether, or how long, to continue water deliveries to excess lands beyond the recordable contract period and during the period of sale by the Secretary.

The Administration would also seek to contract speculation in excess lands by amending Section 46 of the Omnibus Adjustment Act of 1926 (43 U.S.C. 423(e)) to extend price control by the Secretary over the sale and resale of excess lands for a period of 15 years beyond the initial sale, and by requiring clear documentation of the legal conditions of sale in the sales transactions. Although Section 46 could, and we think should, be read to provide authority for price control over resales of excess lands, it has not been so interpreted until recently. For this reason, we believe that provisions for strengthening and clarifying Section 46, found at Section 12(c) of our amendments, are worthwhile.

REPAYMENT OF PROJECT COSTS

Section 10(a) of the amendments would require that any water service contracts including amendments or temporary contracts, entered into after enactment, would require reassessments of rates and repayment every 5 years. This would recognize several factors. Frequently irrigation projects are built on terms which are extremely favorable to the irrigators, whose initial payment capacity may be

small; however, as a project progresses and farms become establish
repayment capacity is likely to increase substantially. If so, it is o
fair that irrigators being favored with a substantial Federal subsi
should assume a larger measure of responsibility. Additionally, o
the course of a given project contract of 40 or 50 years, economic c
ditions and technology will change and inflation could substanti
dilute the dollar; the reassessment provision would permit recog
tion of these factors. The reassessment provision would not guara
a rate increase every 5 years; nor would it be one-sided. In a perio
a serious economic down-turn, a rate reassessment could reflect adv
conditions. We consider the reassessment provisions to be desira
The renegotiation provision would not apply to repayment contr
negotiated under section 9(d) of the Reclamation Project Act of 1
We note, however, that section 9(d) does permit variable paym
rates negotiated at the inception of the contract.

Section 10(b) of our amendments requires that repayment for
portion of a delivery system constructed as part of a reclamation
ject should comence within 1 year after that portion of a deli
system begins to regularly deliver water. This recognizes that pr
beneficiaries should begin repayment when the benefits of a pr
begin to accure. In a number of cases serious abuses have occu
when project facilities have been in operation for a number of y
delivering benefits before repayment has commenced. The prov
recognizes outstanding commitments for “development pe
privileges allowed by sections 7 and 9 of the Reclamation Projec
of 1939, and allows future application of those provisions in pote
hardship situations. We recognize it may take time to initiate
producing crops, although 10 years may be too long. While it i
our intention to negate those provisions of the 1939 Act, it shou
understood in current and future applications of the develop
period provisions of that law that they were written in a tim
extreme economic hardship, particularly for farmers, and suc
treme conditions do not pertain today. Moreover, other govern
programs have been developed to forestall economic hardship a
farmers.

PUBLIC PARTICIPATION IN CONTRACTING

S. 14 does not address this issue. We support the concept of
participation in the contracting process, and this position is co
ent with the findings and recommendations contained in the rep
the Special Task Force on the San Luis Unit, published Ja
1, 1978, pursuant to Public Law 95–46.

We recognize that decisions of great importance, which signi
ly affect both project beneficiaries and those outside the proje
made in the contract negotiation process. All affected parties
have the opportunity for knowledge of pending proceedings a
input into the process. It is also true that in the actual negoti
there may be times when direct public participation may
practicable. We believe that our recommendation for public par
tion, which is found at Sec. 11 of our amendments, is fair to
interested in any given project or contract proceeding. The
sions are similar to H.R. 6335 and H.R. 10243 in the 95th Congr

are consistent with the recommendations of the San Luis Task Force. They would require public notice of proposed draft contracts, and opportunity for public comment, with public hearings at the Secretary's discretion; review of comments by the Secretary would also be required. Contract negotiations would be open to the public as observers; notice of these sessions would not be required.

CIVIL PENALTY PROVISION

We have proposed in Section 16 the addition of authority for the Secretary to assess a civil penalty against those who violate provisions of the Federal reclamation laws and regulations. The penalties would vary wtih the circumstances but could range, at the Secretary's discretion to $5,000, or to twice the value of project water delivered to a violator. Traditionally, the only sanction available to the Secretary to enforce reclamation laws has been to cut off project water supplies for infractions. This is a Draconian measure which the Department has been reluctant to invoke. Without abandoning the option of shutting off water, we believe that the civil penalty provision will offer an additional and more flexible and realistic tool for achieving compliance with the reclamation laws.

OTHER PROVISIONS

We would adopt a provision in Sec. 8(b) of S. 14 calling for an exemption for charitable and religious organizations, holding project lands as of January 1, 1978, from legal limitations of the reclamation program. Although we do not want to expand the participation of charitable organizations in the program since that is not the purpose of the program, we do not wish to eliminate those charitable organizations now participating in the program.

Our position adopts the provision of Section 9(a) of S. 14 which would authorize the Secretary upon the request of the holder to amend existing contracts to conform to the provisions of the bill.

An additional provision requires water districts to obtain and maintain such data and submit such reports as the Secretary may consider necessary to enforce the law.

Other reclamation laws, not inconsistent with the new bill, would remain in full force and effect.

DEPARTMENTAL REGULATIONS

It is appropriate to mention here the regulations, which would be required by Section 14 of our amendments, and which are being developed in coordination with work now underway on an environmental impact statement (EIS). The draft regulations which were proposed previously have been substantially revised, based upon hearings which were conducted in the West by top policy level officials of the Department, on 10,000 written comments which were received, and on further ongoing study by the Department. Additional revisions to the regulations will be forthcoming. Pursuant to a decision of the Federal District Court in Fresno, further promulgation of rules is stayed pending completion of the EIS. The EIS will be done with references to the rules as revised to date, not the rules as initially proposed. Our present timetable calls for completion of the EIS and regulations process during 1980. This matter will be more fully covered in Departmental testimony at hearings on S. 14 before your Committee.

It is clear that the EIS will increase our knowledge of potential impacts of the regulations, and of legislative amendments as well. There is substantial interest in the Congress and elsewhere to amend the law. We concur in that purpose. On behalf of the Administration, we are offering this report and the attached amendments in response to your requests for our views on the Congressionally-sponsored legislation now before you. We will continue to work on the EIS with the expectation that it may well offer important additional knowledge concerning alternatives for this program. When the EIS is complete, we will then assess its importance for pending or future regulations and legislation.

We note that other bills, in addition to S. 14, on the subject of reform of the Federal reclamation laws, have been recently introduced in the Senate, including S. 633 and S. 386. While we have not been requested to address these bills for the purposes of this hearing, we believe they may present potentially serious problems for the reclamation program (especially S. 633) and we would like to have the opportunity to submit additional views in time for further Committee consideration of reclamation reform legislation.

This concludes the presentation of the Department's views. As stated initially, we would support enactment of legislation reflecting the views and amendments provided herewith.

The Office of Management and Budget has advised that the presentation of this report is in accord with the Administration's program.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.

Attachment.

PROPOSED AMENDMENTS AND ADDITIONS TO S. 14

Insert new Sec. 2 of S. 14, page 2, line 1:

STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to reaffirm as law and policy that the purposes of the Reclamation Act of 1902 and the Congressional intention in Federal reclamation law, are and have been:

(a) to promote owner-operated family farms;

(b) to provide opportunity for a maximum number of farmers on the land and for individuals to get a start in farming;

(c) to distribute widely the benefits of federally subsidized reclamation projects;

(d) to preclude speculative gain in the disposition of excess and formerly excess lands; and

(e) to provide for sound repayment practices from those receiving federally supplied water.

DEFINITIONS

Change Sec. 2 of S. 14 to Sec. 3 and revise as follows:

"Sec. 3. As used in this Act—

(a) The term "Secretary" means the Secretary of the Interior.

(b) An "immediate family relationship," for the purposes of this Act and reclamation laws generally as modified by this Act, shall mean persons in a direct lineal relationship with each other, spouses, brothers and sisters.

(c) "Adult individual" for the purposes of this Act shall mean any individual person 18 years of age, or older.

(d) "Resident" shall mean an adult individual having a beneficial ownership interest in or who leases land receiving water from a Federal project governed by Reclamation law, and who is an actual bona fide resident on or in the neighborhood of, but in no event greater than 50 miles from, the land receiving project water.

(e) "Project water" is water that is furnished under reclamation law by or through federally financed facilities to a district.

(f) "Leasing" shall mean a legal arrangement where the person owning the land (the lessor) relinquishes to another (the lessee) effective control or operation or management of the land, in exchange for cash or other value.

(g) "Purchaser" shall mean an individual who acquires an ownership interest in project lands by whatever means.

(h) "District" shall mean any entity or individual which has a contract, lease, license or permit with the United States for a water supply for agricultural purposes.

(i) Project lands are lands receiving project water.

Insert new Sec. 4 as follows:

ELIGIBILITY

"Sec. 4. Eligible recipients of Federal reclamation project water for rrigation of project lands shall be limited to:

(a) Adult individuals who own and/or lease lands within a Federal reclamation project for agricultural purposes and who are residents and comply with the acreage and other requirements of this Act;

(b) Two adult individuals, related or unrelated, who own and/or lease jointly project lands for agricultural purposes and who are residents and comply with the acreage and other requirements of this Act; and

(c) Other legal entities representing the ownership interest of two or more adult individuals, such as corporations, partnerships, trusts, and joint tenancies meeting these requirements:

(1) The entity is legally registered or established in one or more States;

(2) All beneficial owners (except one, as per (b) above) must be in an immediate family relationship with each other;

(3) All beneficial owners must be residents; and

(4) No more than 480 acres may be owned and/or leased (of which no more than 320 acres must be owned) for each participating resident adult individual, provided that in no instance shall a legal entity own and/or lease more than 960 acres of land receiving project water, of which no more than 640 acres may be owned.

(d) A minor individual may beneficially own land served by project water so long as the acreage involved is counted against the ownership entitlement of an eligible adult.

(e) Each of the above classes of eligible participants shall, in addition to meeting residency requirements as set forth in section 5, infra, be required to be substantially involved in the farming operation. Criteria and standards for involvement shall be developed in regulations to be issued pursuant to section 14, infra."

Change Sec. 5 to be titled "Residency" and substitute the following:

RESIDENCY

"Sec. 5. (a) The requirement in section 5 of the Reclamation Act of 1902 (43 U.S.C. 392) pertaining to residency is hereby reaffirmed. The term resident shall be defined as provided in Sec. 2(d) above.

(b) Notwithstanding subsection (a), in recognition of the fact that the residency requirement has not been enforced for many years, and in order to avoid the undue hardships that may arise if the requirement is enforced too abruptly, residency will be enforced henceforth as follows:

(1) Residency shall be required of all new purchasers of Reclamation project lands after January 1, 1978; however, new purchasers may qualify to continue to receive project water on newly purchased lands by making affidavits indicating an intent to become a resident within 3 years, and by becoming a resident within that time.

(A) The Secretary shall carefully monitor such affidavits to achieve compliance.

(B) The Secretary may impose by rule such reasonable procedures and sanctions as may be necessary to protect against fraudulent or other unfulfilled affidavits. Such sanctions may include termination of water deliveries to the land in question, or penalties as provided by section 16 of this Act.

(2) With respect to individuals who own land purchased prior to January 1, 1978, who are not now residents, but who are otherwise qualified, residency will not be required so long as ownership is retained; upon transfer of any beneficial interest in the land, however accomplished, the transferee shall be a resident.

(3) Where land has been owned prior to January 1, 1978, by a family corporation or other form of multiple ownership comprised of individuals in an immediate family relationship, residency will not be required of individuals having an interest in the family multiple ownership as of that time; upon the addition of any new family shareholders in the multiple ownership, or upon any transfer of title or shares however accomplished, new owners or shareholders shall be residents.

(4) Lands now owned by corporations or other entities which would not be eligible to receive project water according to provisions of Section 4 above, shall lose their elgibility to receive project water if, within five years from the date of enactment of this Act such owners have not become qualified or transferred their ownership to qualifying adult resident individuals or family entities.

(5) With respect to lessees of lands receiving project water, residency shall be required upon the termination of a valid written lease (existing as of January 1, 1978) or 5 years from the date of enactment of this Act, whichever is greater. Owners/lessors shall be subject to provisions above relating to ownership."

ACREAGE LIMITATIONS

Change Sec. 2 to Sec. 6 and substitute the following:

"Sec. 6. (a) Notwithstanding any other provisions of law, for the purposes of administering Federal Reclamation laws, no project water shall be delivered to any lands in excess of 320 acres owned by any one resident adult individual.

(b) Each resident adult owner may receive project water for an additional amount of leased land, which when added to the land owned does not exceed 480 acres. However, in no event may an individual adult owner own more than 320 acres of land receiving project water. All 480 acres of a single entitlement receiving project water may be leased land if none is owned.

(c) A resident adult individual may receive project water for land owned and/or leased jointly with one other resident adult individual, related or unrelated, provided that the total land owned does not exceed 640 acres and the total farm size of owned and leased land does not exceed 960 acres.

(d) The Secretary may allow other multiple ownership arrangements including trusts, partnerships, joint tenancies, and corporations to involve larger operating units provided eligibility requirements of Section 4(c) are met, and provided further that the total farm size of owned and leased land does not exceed 960 acres.

(e) Nothing in this Act shall repeal or amend existing statutory exemptions from acreage limitations of the reclamation laws.

(f) The acreage limits in the Act shall be determined without regard to project or district lines.

(g) Implementation of Acreage Limitations

(1) Acreage limitations contained in this Act will apply immediately to any purchases or leases of lands, excess or non-excess, occurring after January 1, 1978.

(2) Lands currently under recordable contract as of enactment of this Act will retain their eligibility to receive project water during the term of the recordable contract.

(3) In circumstances where lands are subject to an existing, valid recordable contract entered into prior to enactment of this Act, and where lands formerly considered excess may fall within acreage limitations imposed by this Act, the Secretary is authorized to renegotiate such recordable contracts to reflect new limitations, if requested by the holders of those contracts and provided

that the landowners making the request currently meet eligi
requirements provided in this Act. Any such renegotiated
tracts shall not extend the term for sale of lands deemed e
beyond the time originally agreed.

(4) Multiple ownerships which did not meet eligibility cr
of sec. 4 of this Act as of January 1, 1978 shall have 5 years
the date of enactment of this Act within which to conform t
requirements of this Act, to transfer their lands to eligible ow
or to cease receiving project water.

(5) Family corporations or any other multiple ownershi
which all participants having a beneficial interest were i
immediate family relationship on January 1, 1978, need not
ply with the acreage limits contained in this section whic
more restrictive than any in effect on January 1, 1978 in ord
retain their eligibility to receive project water. Lands own
these family ownership arrangements will become subject t
acreage limits of this Act upon the first transfer of title or sh
however it occurs, or the addition of any new beneficial ow

(6) Notwithstanding the above subsections, lands held by
owners and/or lessees in more than one irrigation district w
are currently receiving water and which in total exceed ac
limits applied by this Act, shall be considered excess imm
ately, and owners must place these lands under recordable
tract within one year of the enactment of this Act, in ord
continue to receive project water. The lands placed under re
able contract must be disposed of within 5 years. If a lessee l
from more than one owner and the lessee, only, is in excess st
then the lessee shall comply as provided in subsection (7) b

(7) Those lessees holding lands under a valid written l
existing as of January 1, 1978, and receiving project water,
be required to comply with acreage limitations imposed h
within 5 years or upon termination of such valid written l
whichever is longer.

(8) The acreage limitations applied by this section sha
subject to the provisions of section 7."

EQUIVALENCY

Change Sec. 4 to Sec. 7 and modify to read as follows:

"Sec. 7. (a) Whenever an acreage limitation would be impose
Federal reclamation law, as modified by this Act, the Secretary
establish the acreage of land owned and/or leased in one unit by
resident adult individual, which may be eligible to receive pr
water from, through, or by means of project works as nonexcess l
at four hundred eight acres of class 1 land or the equivalent the
in other lands of lesser productive potential, as determined by
Secretary. Equivalency may be applied on a district-by-district l
and may be applied to a given district only if requested by the dis
following a vote by the district membership favoring the applica
of equivalency, and if the Secretary determines it is appropriate
Department shall use existing standards, criteria, and procedure
the Bureau of Reclamation in classifying lands, determining
equivalency factor, and in applying the equivalency policy: Provi

That this section shall not apply to any project, unit or division of a project, or repayment contracting entity if the average frost-free growing season, as determined from published Department of Commerce records, exceeds one hundred and eighty days.

(b) On projects where the application of equivalency has been previously authorized by an act of Congress, that authorization shall remain in effect; however, upon the request of a district holding an existing contract with the Secretary on any such project, the Secretary may reassess existing equivalency determinations and amend existing contracts to reflect changes in reclamation law effected by this Act.

(c) The Secretary may determine, in his discretion with respect to any district requesting the application of equivalency after examination of all relevant factors pertaining to equivalency, and despite the fact that the requesting district may lie wholly or partly within the 180-day limitation applied by this Act, that the application of an equivalency formula to such district is inappropriate.

(d) By March 31 of the year following calendar year of the date of enactment of this Act, and on each March 31 thereafter, the Secretary shall report to the Congress on actions taken to carry out the purposes of this section. The report shall present on a case-by-case basis, the name of the project division, unit, and repayment entities involved and summary information on equivalency determinations and other actions taken by the Secretary under this section during the calendar year preceding the date of the report."

Change Sec. 6 to Sec. 8 and revise to read:

CONTRACT APPROVALS

"Sec. 8(a). The reclamation contracts with water user organizations negotiated pursuant to the Federal reclamation laws by the Secretary of the Interior, and listed hereinafter, are hereby approved by the Congress of the United States. (Contracts are listed in Appendix A to this bill, incorporated as part of the bill.)

(b) Provisions in the aforementioned contracts allowing for exemption from the acreage limitation provisions of reclamation law upon full payment of the districts' allocated shares of construction costs shall not be construed as authorizing or allowing lump sum or other accelerated payment in order to achieve such an exemption. Only payment over the normal term in regularly scheduled installments shall be sufficient.

(c) Upon full payment of a district's allocated share of construction charges in regularly scheduled installments over a normal, full term, for any district in any project heretofore or hereafter authorized, and of any other charges and loans incurred under authority of any other Federal Reclamation Law, the Secretary, upon application by a district or other contracting entity, may in his discretion grant an exemption from the acreage limitations and residency requirement imposed by the Federal Reclamation Laws only if he is satisfied that a general pattern of family-sized farm ownerships owned and operated in accordance with Reclamation law has been established within the boundaries of the district or other contracting entity seeking the exemption. The repayment of loans under the Rehabilitation and Betterment Act, 43 U.S.C. § 504, et seq., shall be required prior to Secretarial consideration on an exemption only for those loans made after the effective date of this Act.

(d) The Secretary shall provide, upon request of any owner of land in a district for which repayment has been made and an exemption has been allowed, a certificate acknowledging that the land is free of the acreage limitation provisions of Federal reclamation laws. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located."

Change Sec. 7 to Sec. 9 and revise to read as follows:

Leasing Conditions

"Sec. 9. (a) The residency and acreage limitation requirements of this Act shall apply to both lessors and lessees of project land receiving project water, as provided in section 5 and 6 above.

(b) No eligible recipient acquiring a landholding after January 1, 1978, may lease such landholding unless he or she has derived income as a qualified recipient from such landholding for agricultural production rather than a fixed rental for a period of not less than ten years: Provided, however, That the Secretary may permit such leasing after a shorter period of time upon application of a lessor if the Secretary determines that hardship or other mitigating circumstances including purchase of land which is subject to a valid written lease warrant such permission.

(c) The Secretary shall require that each district shall maintain a accurate and up-to-date file on each lease of lands served by Federa water. Each lease shall be filed with the district. Each district shal maintain files open for public inspection and shall report annually t the Department on the outstanding leases within the district that ar served by Federal water."

Add new section 10 through 17 as follows:

Repayment of Project Costs

"Sec. 10. (a) With respect to water service contracts, including temporary and interim contracts, or any amendments to such contract entered into after the date of enactment of this Act, the Secretar shall require in any such contracts or amendments that rates and a sessments to be paid by the contracting entity shall be renegotiat every five years. The studies on which such rates and assessments m be based shall also be conducted every five years. Any other admini trative review ordinarily conducted by the Secretary of reclamati projects shall be coordinated to the extent possible with rate reviews avoid duplication of work and unnecessary administrative burdens.

(b) Notwithstanding any other provision of law, the Secretary sh require in any repayment or water service contract, including inter and temporary contracts, or amendments to such contracts, enter into after the date of enactment of this Act, that payment for porti or section of any distribution or delivery system constructed pursu to Federal reclamation laws, shall commence when such portion section begins regularly and permanently to deliver water. No secti of any system shall be used to deliver water for more than one y unless repayment for that section has commenced, provided that t Secretary shall honor existing contracts or written notices pertaini to "development periods" allowable under Sections 7 and 9 of the Reclamation Project Act of 1939, and may, in situations of potential hardship, apply such provisions for development periods in future contacts."

PUBLIC PARTICIPATION

"Sec. 11. Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding the following new subsections at the end thereof:

(f) No long-term or short-term contract for water supply for irrigation (including any contract for the supply of surplus or interim water) or for repayment of reclamation project facilities may be entered into, amended, or modified by the Secretary or his designate unless, before taking such action, the Secretary has—

(1) published notice of the proposed draft contract in newspapers of general circulation in each region which may be affected by such contract amendment, or modification;

(2) provided an opportunity for comment by interested persons with written data, views, and arguments;

(3) considered substantive comments received.

(g)(1) Contract negotiations involving any of the aforementioned contracts under the Federal reclamation laws shall be conducted in open sessions at which the public may appear as observers and public notice may be, but is not required to be given.

(2) The Secretary may provide an opportunity for a public hearing to receive comments on any proposed contract and shall determine if, when, and where any such hearings shall be held."

DISPOSITION OF EXCESS LANDS

"Sec. 12(a) Owners of excess lands shall be permitted to dispose of their lands, prior to the end of the term of a recordable contract covering such lands, and subject to price approval by the Secretary, to an eligible purchaser of their choice from among the following:

(1) Immediate family members

(2) Long-term (defined as 10 years) tenants and employees, or

(3) Adjoining neighbors.

(b) If land has not been sold to an eligible purchaser as described in section (a) at the end of the recordable contract period, power of attorney shall vest in the Secretary who shall sell the land by lottery or other impartial means to an eligible purchaser according to such reasonable rules as he may establish. When the power of attorney vests in the Secretary, he shall have discretion to continue or to cease delivery of project water to such lands."

(c) Section 46 of the Act entitled "An Act to adjust water right charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e), is amended as follows:

(1) Insert "(a)" before the expression "No water shall be delivered"; and

(2) Strike out "and that until one-half the construction charges said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the

purchase price involved in such sale is approved by the Secre
of the Interior and that upon proof of fraudulent represent
as to the true consideration involved in such sales the Secreta
the Interior is authorized to cancel the water rights attachi
the land involved in such fraudulent sales".

(3) Add a new subsection (b) to read as follows:

"(b) (1) No sale of any excess land on or after the effe
date of this subsection nor any resale of such land (notw
standing any change from excess to non-excess status re
ing from previous sale or resales) within fifteen years
such initial sale of any excess land shall carry rights t
ceive water from any project or division thereof subje
the Federal reclamation laws unless the following req
ments are met:

(A) The purchase price involved in the initial sa
excess land or subsequent resale thereof is approve
the Secretary of the Interior;

(B) The requirements of this section are set for
the sales documents for the initial sale of excess lan
subsequent resale thereof;

(C) Other conditions of initial sale of excess lan
subsequent resale thereof meet the requirements o
Federal Reclamation laws and regulations the Secre
adopts to implement those laws; and

(D) The sale documents for initial sale of excess l
or subsequent resale thereof are recorded in the recor
the county in which the lands are located.

(2) Upon proof of fraudulent representation as to the
consideration involved in any sale the Secretary of th
terior is authorized to cancel the water right attaching t
land involved in such fraudulent sale, or to impose other
tions as provided by section 16 of this Act."

Charitable and Religious Exemption

"Sec. 13. The Secretary is authorized to continue delivery of w
supplies to all project lands held by bona fide religious or charit
non-profit organizations as of January 1, 1978, without regar
acreage and residency requirements of this Act, so long as title re
unchanged. Criteria for non-profit status may be developed in
regulations as the Secretary may promulgate."

Regulations

"Sec. 14 The Secretary is hereby authorized and directed to
mulgate rules and regulations subject to the provisions of subcha
I and II of chapter 5 of title 5, United States Code, to carry ou
purposes of this Act and the Federal reclamation laws."

Administrative Provisions

"Sec. 15 (a) The Secretary is authorized upon request of the ho
of an existing contract under Federal reclamation laws to amen

contract to conform to the provisions of this Act, and to otherwise perform any and all acts appropriate to carrying out the purposes of this Act.

(b) Except to the extent they are inconsistent with this Act, the Federal reclamation laws in effect at the time of enactment of this Act shall remain in full force and effect.

(c) The Districts and recipients of project water shall compile and maintain such records and information relating to land ownership, residency, leasing, water supply and use, land use, cropping, financial transactions including transfers of interest in lands, and other matters as the Secretary determines are reasonably necessary to implement this Act and reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every district, owner or operator of lands annually receiving project water shall, as a condition precedent to delivery of project water, provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require."

PENALTIES AND ENFORCEMENT—CIVIL PENALTIES

"Sec. 16 (a) Any person, district or other contracting entity, who knowingly commits an act in the process of apply for or receiving water from a project governed by the Federal Reclamation Laws which violates any provision of this Act or any of the other acts commonly called the Federal Reclamation Laws, or any regulations promulgated pursuant to any of those acts, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation: *Provided*, however, that if the person, district or other contracting entity, is in violation of a provision of law or regulation dealing with acreage limitations or residency, the penalty shall be set at a minimum of double the fair market value of the water so delivered, considering the cost of private irrigation, groundwater pumping costs, and any other relevant factors.

(b) Any person, district or other contracting entity which fails to compile, maintain, or make available any records required to be kept under this Act or any other acts commonly called the Federal Reclamation Laws, or any regulations promulgated pursuant to any of those acts, may be assessed a civil penalty by the Secretary of not more than $200 for each day that it fails to produce such records following the date provided for production in a written request for the records by the Secretary.

(c) The Secretary shall assess the penalties authorized under section (a) and (b) only after a hearing before an administrative law judge or other appropriate Department official. The Secretary may in his discretion reduce or remit such civil penalty.

(d) Upon failure to pay a penalty assessed under this Act, the Secretary may request the Attorney General to institute a civil action in any district court of the United States in which the person, district, or other contracting entity is found, resides, or transacts business to collect the penalty. Such court shall have jurisdiction to hear and decide any such action.

(e) In any hearing held to consider the assessment of the ci
penalty authorized by this Act the Secretary may issue subpoenas f
the attendance and testimony of witnesses and the production of re
vant papers, books, and documents, and administer oaths. In case
refusal to obey a subpoena served upon any person pursuant to th
section, the district court of the United States for any district in whi
such person is found or resides or transacts business, upon applicati
by the United States and after notice to such person, shall have jur
diction to issue an order requiring such person to appear and gi
testimony before the Secretary or other appropriate Departmen
official, or to appear and produce documents, or both, and any failu
to obey such order of the court may be punished by such court as a c
tempt thereof.

(f) The civil penalty authorized herein may be assessed, in the S
retary's discretion, in addition to, or instead of, any other remedy p
vided by law, regulation, or contract for violation of this Act or a
of the other acts commonly called the Federal Reclamation Laws,
any regulations promulgated pursuant to any of those acts."

AUTHORIZATION OF APPROPRIATIONS

"Sec. 17. There are hereby authorized to be appropriated, from ti
to time, out of any money in the Treasury not otherwise appropriat
such sums as are necessary to meet costs and expenses incurred by t
United States for the implementation and administration of the p
visions of this act to whatever extent such actions may relate to fu
tions of the office of the Commissioner of Reclamation and prope
constituted subordinate offices thereof; *provided*, that such costs a
expenses shall be, to the extent they are assignable to a particular pr
ect or district, reimbursable as construction, operation and main
nance, or other costs under the Federal Reclamation laws (Act
June 17, 1902, 32 Stat. 388 (43 U.S.C. 371),) and acts amendat
thereof or supplementary thereto."

CONTRACTS WITH PAYOUT OF CONSTRUCTION CHARGES APPROVED BY CONGRESS

Project: Contractor: Type of action	Acreage	Date of contract	Date of payout	Excess lands	Contract No.
Yakima, Wash.:					
Kittitas Reclamation District: Contract	59, 582	Nov. 25, 1949	2015	712.0	
[illegible] Irrigation District: Contract	2, 155	do	1981	0	
Roza Irrigation District: Contract	72, 511	July 22, 1953	2026	344.8	
Vale, Ore.: Vale Oregon Irrigation District: Contract	34, 993	Apr. 11, 1949	2022	0	
Frenchtown, Mont.: Frenchtown Irrigation District: Contract	4, 574	Sept. 6, 1951	1993	1, 682.6	
Owyhee, Idaho/Oregon:					
Owyhee Irrigation District: Contract	49, 706	Aug. 29, 1951	2041	0	
Gem Irrigation District: Contract	33, 578	do	2041	500.0	
Ridgeview Irrigation District: Contract	6, 174	do	2041	3.0	
Advancement Irrigation District: Contract	537	do	2041	Unknown	
Payette-Oregon Slope Irrigation District: Contract	4, 680	do	2041	Unknown	
Crystal Irrigation District: Contract	1, 280	do	2041	Unknown	
Bench Irrigation District: Contract	2, [illegible]19	do	2041	Unknown	
Slide Irrigation District: Contract	1, [illegible]44	do	2041	Unknown	
Ontario-Nyssa Irrigation District: Contract	5, 831	Aug. 20, 1951	2041	Unknown	
North Platte, Nebr./Wyo.:					
Gering-Fort Laramie Irrigation District: Contract	54, 845	Sept. 22, 1952	1994	1, 787.0	
Goshen Irrigation District: Contract	52, 484	do	1996	3, 891.0	
Pathfinder Irrigation District: Contract	100, 949	do	1995	4, 521.0	
Umatilla, Ore.:					
Hermiston Irrigation District: Contract	10, 829	July 6, 1954	2056	0	
West Extension Irrigation District: Contract	6, 519		2118	1, 676.0	
Deschutes, Oreg.: North Unit Irrigation District: Contract	50, 000	Feb. 13, 1954	2035	302.0	
Minidoka, Idaho: American Falls Reserv. District No. 2: Contract	20, 000	Oct. 14, 1954	1968	0	
Boise, Idaho: Black Canyon Irrigation District:					
Contract No. 1	6, 881	Sept. 2, 1954	1961	9.0	
Contract No. 2	53, 200				
Klamath, Calif./Oreg.: Tulelake Irrigation District: Contract	42, 909	Sept. 10, 1956	1997	2, 466.0	

WHICH CONTAIN PROVISIONS FOR RELIEF FROM ACREAGE LIMITATION UPON FULL PAYOUT OF CONSTRUCTION CHARGES—NOT APPROVED BY CONGRESS

Project: Contractor: Type of service	Acreage	Date of contract	Date of payout	Excess lands
Avondale (Idaho): Avondale Irrigation District: Full contract	860	July 14, 1954	June 30, 2002	0
Boise (Idaho): Emmet Irrigation District: Supplemental	25,000	Oct. 4, 1955	June 30, 2006	21
Cresent Lake Dam (Oregon): Tumalo Irrigation District: Full	8,000	Sept. 20, 1954	June 30, 1998	0
Dalton Gardens (Idaho): Dalton Gardens Irrigation District: Full	979	Apr. 26, 1954	Dec. 31, 1997	0
Little Wood River (Idaho): Little Wood River Irrigation District: Supplemental	9,549	June 18, 1958	June 30, 2011	0
Michaud Flats (Idaho): Falls Irrigation District: Full	11,275	Dec. 9, 1955	June 30, 2019	1,613
Minidoka-Palisades (Idaho):				
Aberdeen-Springfield Canal Co.: Supplemental	47,200	Oct. 22, 1952	Dec. 31, 2000	Unknown
American Falls Reservoir District: Full	211,900	May 13, 1954	May 13, 1954	0
Blackfoot Irrigation District: Supplemental	10,800	Dec. 12, 1952	Dec. 31, 2000	0
Burgess Canal & Irrigation Co.: Supplemental	21,100	Dec. 18, 1952	do	0
Burley Irrigation District: Full	48,000	do	do	23
Butler Island Canal Co., Ltd.: Supplemental	600	Dec. 12, 1952	do	Unknown
Butte and Market Lake Canal Co.: Sup-				
Butte and Market Lake Canal Co.: Supplemental	19,400	do	do	Unknown
Clark & Edwards Canal or Irrigating Co.: Supplemental	1,800	do	do	Unknown
Corbett Slough Ditch: Supplemental	4,700	do	do	0
Craig Mattson Canal Co.: Supplemental	900	June 22, 1960	do	0
Danskin Ditch Co.: Supplemental	5,200	Dec. 12, 1952	do	0
Dilts Irrigation District, Ltd.: Supplemental	525	do	do	0
Enterprise Canal Co., Ltd.: Supplemental	5,400	do	do	0
Enterprise Irrigation District: Supplemental	6,000	June 2, 1960	June 2, 1960	0
Farmers Friend Irrigation Co., Ltd.: Supplemental	10,200	Dec. 12, 1952	Dec. 31, 2000	0
Food, Machinery, & Chemical Corp.: Supplemental	160	Mar. 2, 1960	do	Unknown
Harrison Canal & Irrigation Co.: Supplemental	9,500	Dec. 2, 1952	do	Unknown
Idaho Irrigation Co.: Supplemental	33,600	do	do	1,012
Island Irrigation Co.: Supplemental	2,900	do	do	Unknown
J. R. Simplot Co.: Supplemental	160	Feb. 12, 1960	do	Unknown
LaBele Irrigation Co.: Supplemental	1,600	Dec. 12, 1952	do	0
Lenroot Canal Co.: Supplemental	3,100	do	do	0
Liberty Park Irrigation Co : Supplemental.	5,000	do	do	0
Long Island Irrigation Co.: Supplemental.	3,100	Jan. 19, 1960	do	1,437
Lowder Slough Canal Co., Ltd.: Supplemental.	740	Dec. 12, 1952	do	0
Martin Canal Co.: Supplemental	1,600	do	do	0
Minidoka Irrigation District: Full	72,000	Feb. 2, 1960	do	1,818.9
New Lava Side Ditch Co.: Supplemental	4,700	Dec. 12, 1952	do	0
New Sweden Irrigation District: Supplemental	25,100	do	do	1,021
North Rigby Irrigation & Canal Co.: Supplemental	1,200	Dec. 18, 1952	do	0
North Side Canal Co., Ltd.: Supplemental	155,500	Dec. 12, 1952	do	Unknown
Palisades Water Users, Inc.: Supplemental	31,080	do	do	Unknown

WHICH CONTAIN PROVISIONS FOR RELIEF FROM ACREAGE LIMITATION UPON FULL PAYOUT OF CONSTRUCTION CHARGES—NOT APPROVED BY CONGRESS

Project: Contractor: Type of service	Acreage	Date of contract	Date of payout	Excess lands	Contract No.
Parks & Lewisville Irrigation Co.: Supplemental.	8,600	do	do	0	
Parsons Ditch Co., Ltd.: Supplemental.	440	Feb. 17, 1960	do	0	
Peoples Canal & Irrigation Co.: Supplemental.	16,300	Dec. 18, 1952	do	40	
Pocatello, city of: Supplemental	160	Jan. 8, 1960	do	Unknown	
Popular Irrigation District: Supplemental	1,200	Dec. 18, 1952	do	0	
Progressive Irrigation District: Supplemental	30,400	do	do	1,187	
Reid Canal Co.: Supplemental	4,600	Dec. 12, 1952	Dec. 31, 1974	0	
Rigby Canal & Irrigation Co.: Supplemental	3,090	do	Dec. 31, 2000	0	
Riverside Ditch Co.: Supplemental	3,400	do	do	0	
Rudy Irrigation Canal Co.: Supplemental	4,700	do	do	0	
Snake River Valley Irrigation District: Supplemental	19,[illegible]00	do	do	150	
Sunnydell Irrigation District: Supplemental	3,800	do	do	0	
Texas Slough Irrigation Co.: Supplemental	3,300	do	do	0	
Trego Ditch Co.: Supplemental	1,200	do	do	0	
Twin Falls Canal Co.: Supplemental	205,000	May 13, 1954	do	Unknown	
Watson Slough Ditch Co. & Watson Slough Irrigation Canal: Supplemental	2,900	Dec. 18, 1952	do	0	
Wearyrick Ditch Co.: Supplemental	1,400	do	do	Unknown	
West LaBelle Irrigation Co.: Supplemental	1,000	May 31, 1961	Dec. 31, 2004	0	
West Side Mutual Canal Co: Supplemental	1,000	July 6, 1954	Dec. 31, 2000	Unknown	
Woodville Canal Co.: Supplemental	2,600	Dec. 18, 1952	do	200	
Rogue River Basin (Oregon): Talent Irrigation District: Supplemental	15,054	Aug. 27, 1956	Dec. 31, 2032	0	
Wapinitia (Oregon): Juniper Flat District Improvement Co.: Supplemental	2,108	Apr. 11, 1957	Dec. 31, 2000	0	
Yakima (Washington): Kennewick Irrigation District: Full	19,171	July 22, 1953	June 30, 2024	0	
Klamath, Calif./Oreg.:					
Poe Valley Improvement District	2,[illegible]36	July 20, 1953	[1]1993	1,236	
Plevna District Improvement Co	523	Feb. 7, 1955	[1]1967	0	
Horsefly Irrigation District	9,848	Sept. 16, 1957	[1]1981	Unknown	
Klamath Irrigation District	38,875	Nov. 20, 1954	Imminent	Unknown	
Yuma, Ariz.: Yuma County Water Users Association: Supplemental	53,415	June 15, 1951	1963	2,796	
San Angelo, Tex.: Tom Green County Water Control and Improvement District No. 1: Full	10,000	June 18, 1959	2022	316	14-06-50036

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 19, 1979.

HON. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your May 30, 1979, letter requesting information on the application to the Elephant Butte Irrigation District of the provisions of S. 14 that would grant relief from acreage limitations and residency requirement of Federal reclamation laws upon completion of the repayment required under a contract with the United States. The specific question asked is: ". . . would the Ele phant Butte Irrigation District be considered to have completed 're payment required by the terms of any contracts with the Secretar relating to the delivery of water supplies to such landholding for agri cultural use'?"

The provision in question in S. 14, as currently drafted, provide that:

> The acreage limitation provision and residency requirement o the Federal Reclamation Law shall cease to apply to any land holding upon completion of the repayment required by the terms o any contracts with the Secretary relating to the delivery of wate supplies to such landholding for agricultural use.

The repayment obligation of the Elephant Butte Irrigation Distri under its repayment contract with the United States dated Novemb 9, 1937, was $5,698,012. Repayment of this obligation to the Unit States by the district was completed in September 1971. This contra obligation represented the remaining balance of the repayment oblig tion of the district at the date of the contract for the delivery of wat supplies for agricultural use; therefore, in our opinion, the Elepha Butte District has completely paid its repayment obligation to t United States.

We note an important difference between the provision cited abo and similar provisions contained in other bills on the same subje The exemption provision in S. 14 allows an exemption simply up payout of charges according to contract terms, but is not depende upon the repayment contract having a so-called "payout" provisi which specifically provides for cessation of regulation upon full p ment of construction charges. Most of the other proposed exempti provisions we have dealt with so far called only for the validat of these payout articles.

The problem with Elephant Butte is that payout clauses are c tained in some individual recordable contracts, but not in the Dist contract. An exemption based on the individual recordable contr containing payout provisions would not cover all of the land in district, and would create a "checkerboard" effect of exempt and n exempt lands in the district.

The S. 14 provision would seem to solve the "checkerboard" p lem in Elephant Butte and would exempt all of the district's land

Parenthetically, you should be aware that the S. 14 provision not appear to exempt Elephant Butte's sister district, El Paso W Irrigation District. While El Paso has the same form of indivi recordable contracts which could be validated, it has not compl "repayment required by the terms of *any contracts* with the Secre relating to the delivery of water supplies to such landholding agricultural use," (emphasis added) because the district (as we all of its landholders by joint obligation) has not paid out a $7 lion rehabilitation and betterment loan which is scheduled by tract for repayment. A fair interpretation of S. 14, one we pref to require repayment of that rehabilitation and betterment loan to an exemption being granted.

You should also note that, even after construction or other c charges have been paid out, many districts must still pay an a operation and maintenance charge. We don't think Congress intends to continue regulation if the only costs remaining are annual operation and maintenance costs. If so, S. 14 should be revised to make it clear that regulation ceases if the district's only remaining contractual obligation is to pay annual operation and maintenance costs. We also believe, however, as noted in the preceding paragraph, that it may be the intent of Congress to cease regulation only if all construction and capital type costs, regardless of whether they be construction charges under the main repayment contract or loan repayments under other contracts such as rehabilitation and betterment contracts, distribution and drainage contracts or the like, have been repaid. If so, the legislation should be clear on that point as well.

As you know, this Department has opposed previous legislative proposals which would automatically exempt districts from acreage limitations and residency upon repayment. We are concerned particularly about payment over the full term of contracts and about provisions which would allow early "buyout" from acreage limitations, since these would avoid achieving program purposes, such as initial breakup of excess lands and providing new opportunities for small farmers; also such provisions would inure only to the benefit of the few wealthy districts, who could afford "buyout", and would discriminate against the less wealthy majority of districts who could not afford it. We also question the inclusion of the residency requirement in the exemption. We believe it is very important, if some sort of payout exemption is provided, to tailer the provision so inequitable district exemptions, and an inequitable bias in favor of wealthy districts, do not result.

Finally, as your Committee approaches markup of S. 14, we urge your attention to adopting reasonable limitations on acreage, on leasing, on corporate, non-resident, and investor-type ownerships, and such other reasonable controls so that the program can achieve its purposes and does not present the opportunity to develop into a special Federal subsidy for a privileged and wealthy few among the nation's farmers. We would be pleased to talk to you, your colleagues, and your staff at any time about these issues.

Sincerely,

CECIL D. ANDRUS,
Secretary.

SUPPLEMENTAL VIEWS OF SENATOR CHURCH

I sponsored S. 14 and its predecessor bill in the previous Congres for two reasons. First, efforts to rigorously enforce the existing Reclamation Law, especially where recent interpretations are at varianc with long-established practice, threaten to work grave hardships upo many westerners who are exactly the kind of independent famil farmers that the Reclamation program has always intended to encourage and assist. Second, the Reclamation program has been subjec to widespred criticism because the implementation of the acreag limitation under the ambiguous existing statutory guidance has appeared to many to be inconsistent with the spirit of the program.

In S. 14 I have tried to address both problems. This measure will giv relief to real family farmers in several important ways. It will abolis the troublesome residency requirement which has not been enforce for decades. I contend that requiring residency on or in the vicinit of the landholding serves no useful purpose. The establishment of legal residency on an agricultural landholding does not guarantee tha one is a practical farmer nor does a residence more than 50 miles fro landholding in the modern-day West indicate that one is not opera ing the farm on a day-to-day basis.

Further, S. 14 would increase the maximum landholding for whic a farmer might receive Reclamation water service to 1,280 irrigate acres. That is a generous farm size, but it is consistent with the economics of modern farming. There are, in fact, some types of specialize farm equipment so expensive that they could only barely be supporte by an operation of this size.

Of course, few Reclamation farms will actually reach this maximu size, but relief from the long outdated "160-acre" limitation, and t many administrative loopholes which have evolved to permit farme to survive under it, is long overdue.

Beyond these two major provisions, S. 14 contains several othe adjustments, clarifications and amendments of existing law which wi resolve inequities and problems that have arisen in special circumstances over nearly 80 years of experience with the Reclamation La and its interpretation. These provisions are urgently needed by man hundreds of farmers throughout the 17 Reclamation States, man who farm very small acreages but for one or another reason have com into conflict with narrow interpretations of existing law.

On the other hand, S. 14 includes provisions which will make the e forcement of the Reclamation Law more certain and practical. clearly includes leased as well as owned lands within each landholdi which is limited to 1,280 acres. Long term leasing arrangements ha long been cited as the most notable of the evasions of the existing la and it is probably impossible for the Secretary to investigate the r nature of such leases. Under the provisions of S. 14, the acreage limi tion applies to the lands for which a landowner receives water rega less of the nature of his tenure.

Also, under S. 14 large corporations will not be permitted to be qualified recipients of Reclamation water supplies. Existing holdings of large corporations will be limited to 160 acres of land, owned or leased and no new corporate entries will be created.

I am confident that S. 14 will entirely resolve the legal problems of all but a very few of the farmers currently operating within the Reclamation program. But it will also preserve the fundamental purpose of Reclamation land law which is to provide the greatest number of opportunities for economically viable family farm operations.

I am aware that in some areas of the Reclamation West there are a few very large private and corporate land holdings, some encompassing tens of thousands of acres which would not be permitted to continue to exist under this measure. I do not contend that it is necessarily in the public interest to disrupt the economic values produced by such ventures, but I recognize that it was never an objective of the Reclamation program to assign millions or even tens of millions of dollars of public investment to the exclusive economic advantage of a single private or corporate agricultural business.

I have therefore opposed amendments which would permit such landholding to be created or perpetuated by long-term leasing arrangements without acreage restriction.

Frank Church.

ADDITIONAL VIEWS OF SENATOR HATFIELD

In response to recent court cases and proposed regulations on Federal Reclamation Law, Congress has considered several measures to amend and supplement this body of law. The law has not been significantly modified since the original 1902 Reclamation Act and the 1926 Omnibus Adjustment Act.

The proposals before Congress run the entire gamut of interests, from strict imposition of existing law to an entire repeal of some reclamation statutes. S. 14, introduced by Senator Church, is the Committe's vehicle for reclamation reform. It is a noble attempt to address the differing opinions and to mediate between their underlying philosophies. I have strongly supported Senator Church's comprehensive approach and the original intent of S. 14. However, I believe certain provisions accepted by the Committee have skewed the basic objectives of reclamation reform.

I must object, in particular, to provisions allowing lease holdings beyond the 1,280-acre limit, and expanding the payout concept exempting water users from acreage limitations. I have recommended, in addition, that provisions be adopted to provide a fair and equitable mechanism for the disposal of excess land.

I fail to be convinced there is a need to lift acreage limitations for short-term leases. The acreage limitation was expanded to an absolute 1,280-acres specifically to accommodate farming conditions and leasing agreements which are necessary to any farm operation. Lifting acreage limitations for short-term leases can only be viewed as a loophole for large landholders to maintain their excessive claim to reclamation water.

Like the short-term lease exemption, the accelerated and lump-sum payout provisions will allow wealthy farmers to exempt themselves from the acreage limitation and continue to take undue advantage of the continued Federal subsidy. It should be pointed out that the fulfillment of a farmer's obligation actually recovers to the U.S. Treasury only an average of 25 percent of the actual costs of serving that farmer with a Reclamation water supply.

Without an administrative mechanism for the disposal of excess land, Congress will have avoided one of the basic purposes of Reclamation Law—that is, to assure the Federal subsidy is distributed broadly and equitably. It should be recalled that one of the prinicpal tenets of the rationale for spending large sums of Federal money to develop water in the West was—and if we are to extend the program, still must be—the creation of opportunties for the family farm.

As a cosponsor of S. 14, I have suported the bill's intent to (1) update Reclamation Law to conform with the needs of today's farmers and (2) preserve the public's interest in seeing that the Federal subsidy encourages the establishment of viable family owned farms. I believe

e Committe action on S. 14 goes a long way toward meeting the
st objective, but falls far short of the second. If we are to fulfill both
jectives of Reclamation reform I believe the aforementioned changes
ould be made to S. 14.

Mark O. Hatfield.

Changes in Existing Law

In compliance with subsection 4 of Rule XXIX of the Standing
ules of the Senate, changes in existing law made by the bill S. 14,
ordered reported, are shown as follows (existing law proposed to be
nitted is enclosed in black brackets, new matter is printed in italic,
isting law in which no change is proposed is shown in roman):

x Act To Provide for the Differentiation Between Private and Public Ownership of Lands in the Administration of the Acreage Limitation Provisions of Federal Reclamation Law, and for Other Purposes

* * * * * * *

Sec. 3 Lessees of irrigable lands owned by States, political subdivi-
ions and agencies thereof which are held to be subject to the acreage
imitation provisions of Federal reclamation law and for which re-
ordable contracts to sell have not been made may receive project water
for a period not to exceed twenty-five years] from the date of
pproval of this Act subject to the same acreage limitation provisions
f Federal reclamation law as private landowners.

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Calendar No. 247

96th Congress } SENATE { Report
1st Session } { No. 96–236

INCREASE IN FISCAL YEAR 1979 AUTHORIZATION FOR APPROPRIATIONS FOR THE FOOD STAMP PROGRAM

July 6 (legislative day, June 21), 1979.—Ordered to be printed
Filed, under authority of the order of the Senate of June 27 (legislative day, June 21), 1979

Mr. McGovern, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1309]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

Short Explanation

I

S. 1309, as amended by the Committee, would—

(1) increase the fiscal year 1979 authorization for appropriations for the food stamp program by $620 million (from $6,158,900,000 to $6,778,900,000);

(2) eliminate the authority allowing for carryover of unexpended funds from one fiscal year to the next;

(3) allow the elderly and the disabled to deduct (A) medical expenses over $35 per month and (B) shelter expenses over 50 percent of income, to the extent incurred; and

(4) permit the Secretary to make reductions in the value of food stamp allotments on other than a pro rata basis if such action becomes necessary due to any insufficiency of appropriated funds.

★(Star Print)

II

The food stamp program is now faced with two emergency situations that require congressional action:

Extraordinary food-price inflation and the entrance of larg numbers of new recipients, earlier than had been expected, due t elimination of the food stamp purchase requirement, have force program funding needs well above the 1979 appropriations ceiling set in 1977. This has created the prospect of drastic emergenc reductions in food stamp benefits this summer and fall, unles Congress acts soon.

Changes in the food stamp eligibility and benefit rules legislated in 1977 are causing severe hardships among elderly and disabled recipients with high medical and shelter expenses. Thei benefits will continue to be insufficient to ensure an adequate diet unless Congress acts to require that their extraordinary medica and shelter expenses are taken into account in establishing thei need for food stamp aid.

In this emergency measure, the committee has taken action to increase the 1979 appropriations ceiling on the food stamp program t ensure that adequate food stamp benefits may continue through thi fiscal year.

Under the committee bill, monthly reports on food stamp fundin and any need for benefit reductions will forewarn Congress of an future funding shortfalls.

The emergency situation now being faced by elderly and disable recipients with high medical and shelter costs—forcing them to choos between food and necessary medical or shelter expenses—is alleviate by providing that these expenses can be deducted when they consum excessive amounts of the recipients' income.

SUMMARY OF COMMITTEE SUBSTITUTE

S. 1309, as amended by the committee, would—

(1) increase the fiscal year 1979 authorization for appropriations for the food stamp program by $620 million, t $6,778,900,000;

(2) remove the specific language, beginning with fiscal yea 1980, providing for the carryover of unexpended funds from on fiscal year to the next;

(3) remove the ceiling on the amount of the excess shelte expense deduction for participating households that contai elderly persons or persons receiving Supplemental Security Income benefits;

(4) provide an excess medical expense deduction for households that contain elderly persons or persons receiving Supplemental Security Income benefits, to the extent that the actua costs of allowable medical expenses for those persons exceed $3 per month, indexed semiannually;

(5) permit the Secretary to make reductions in the value of foo stamp allotments on other than a pro rata basis (by weightin reductions toward higher-income recipients) if such action becomes necessary due to any insufficiency of appropriated funds;

(6) authorize the Secretary to prescribe (A) special provisions applicable to the elderly and disabled and (B) minimum allotments, if reductions in the value of allotments become necessary;

(7) require the Secretary to file monthly reports, by the 15th day of each month, on food stamp program costs for the second preceding month. In each report, the Secretary is to state whether there is reason to believe that reductions in food stamp benefits will be necessary due to any insufficiency of appropriated funds;

(8) require the Secretary to take requisite action to reduce benefits within 60 days of the issuance of a monthly report in which the Secretary expresses his belief that benefit reductions will be necessary; and

(9) require the Secretary, within 7 days of taking action to reduce benefits, to report to the congressional agriculture committees on (A) the basis for the action, (B) the manner in which the allotments will be reduced, and (C) the action that has been taken to reduce the allotments.

Committee Amendments

The committee amendment to the text of S. 1309 strikes all after the enacting clause and inserts in lieu thereof a substitute.

The committee amendment to the title is conforming in nature.

Background and Need

The Food Stamp Act of 1977 authorizes a nationwide food stamp program under which low-income households are provided monthly food stamp allotments that increase their food purchasing power. Eligibility is based on income, assets, and fulfillment of work registration requirements; benefits vary according to household size and income.

The modern food stamp program began as a set of pilot projects in 1961. In 1964, Congress enacted the Food Stamp Act of 1964 to enable all States to establish the program if they chose to; eligibility was to be determined by the States and benefits were established and paid for by the Federal Government. The first major amendments to the Food Stamp Act of 1964 were passed by Congress in 1970; they allowed for program expansion by establishing nationwide, uniform eligibility standards and providing that benefits be adjusted for food-price inflation. The 1973 amendments to the Food Stamp Act made further provision for indexing food stamp benefits, made a number of changes that opened the program to groups in special need, and called for nationwide availability of the program. By 1975, all States and territories were operating a food stamp program. Most recently, Congress rewrote the entire act and enacted the Food Stamp Act of 1977. The new act made major changes in the program by eliminating the purchase requirement, tightening eligibility rules, redirecting benefits to the lowest-income recipients, and establishing new administrative requirements aimed at simplifying the program and rooting out fraud and abuse.

DERIVATION OF THE APPROPRIATIONS CAP IN THE FOOD STAMP ACT OF 1977

The Senate version of the Food Stamp Act of 1977 (as reported b
the Committee on Agriculture, Nutrition, and Forestry and passed b
the Senate) did not contain annual ceilings on the authorization fo
appropriations in fiscal years 1978–1981.

The food stamp title of the Food and Agriculture Act of 1977
reported by the House Committee on Agriculture did not contain
ceiling or "cap" on the annual amount of authorized appropriatio
for the food stamp program. When the food stamp title was co
sidered by the House of Representatives, it adopted, by a vote of 2
to 173, an amendment that imposed appropriations authorization cei
ings of $5,847,600,000, $6,158,900,000, $6,188,600,000, and $6,23
900,000 for fiscal years 1978 through 1981 respectively. That amen
ment also conditioned the receipt of full benefits by households pa
ticipating in the program on the availability of appropriated fun
and mandated reductions in benefits to participating households if t
Secretary of Agriculture determined that funding requirements e
ceeded the amount of available appropriated funds.

The author of the amendment, Representative Dawson Mathis,
the course of explaining its provisions and effect stated:

> You will hear arguments made by those who oppose the amendment that what we have done is to lock in the expenditures and that there is no way we could secure an increase in authorizations under this cap. In order to refute that argument in the beginning, let me say that it would be very simple if the Department of Agriculture spends in excess of its anticipated goal, or anticipates spending in excess of the amount that is covered in the legislation, to come back to the Committee on Agriculture and ask for a change in the authorization. We could then report that authorization bill to the floor and then the Committee on Appropriations could report a bill onto the floor, that we could pass, for such additional funds as might be necessary to finish out a fiscal year. 123 Cong. Rec. H7891 (daily ed. July 27, 1977).

The conference substitute adopted the House amendment.

The food stamp title approved in conference was estimated to
more costly than the program envisioned in the House version
which the appropriations ceilings were first added, and the econom
and other assumptions upon which the estimates used for setting t
ceiling were those prevalent in early to mid-1977.

OTHER CHANGES CONTAINED IN THE FOOD STAMP ACT OF 1977

The 1977 act did not expand eligibility for participation in the fo
stamp program but rather restricted eligibility. There are now
million fewer persons eligible for participation than there would h
been under the 1964 act.

In addition to substantially lowering the food stamp progra
income eligibility limits, the 1977 act also limits households owni
luxury automobiles from program participation, disqualifies part
ipants who have committed program fraud and those who vol

tarily quit a job to enter the program, restricts program participation by students, imposes a more stringent work registration requirement, and replaces most food stamp itemized deductions with a standard deduction.

In order to ease access to the program for those who remain eligible, the 1977 act eliminated the purchase requirement and set various standards for more responsive administration by State agencies.

The food stamp program is designed to be responsive to changing economic conditions that increase or decrease the need for assistance. This was aptly demonstrated in 1974–76 when food stamp participation rose to a high of some 19.5 million people in the spring of 1975 and then declined by 2 million persons by the end of 1976 as economic conditions improved.

The 1977 act continued this tradition of responsiveness to those in need, while limiting the program's definition of need by removing those with the highest incomes.

CHANGED ECONOMIC CIRCUMSTANCES SINCE 1977 CONGRESSIONAL ACTION: FOOD-PRICE INFLATION

The authorization ceilings imposed by the House of Representatives were derived by increasing the House Committee on Agriculture staff estimate of the cost of the House bill by a factor of 10 percent, a buffer against unforseen circumstances that would have an effect on the cost of the food stamp program.

However, as the following table indicates, the economic assumptions used for the original estimates of the committee staff, the Congressional Budget Office, and the administration were substantially off the mark.

CBO GENERAL ECONOMIC PROJECTIONS OF FEBRUARY 1977, COMPARED TO CURRENT CBO AND ADMINISTRATION ECONOMIC PROJECTIONS OF JANUARY 1979

	Real GNP growth projected in—					CPI food projected in—					Unemployment rate projected in—				
						1967 = 100									
		January 1979 (percent)		Change from February 1977 (percent)			January 1979		Change from base fiscal year 1976[2] (percent)			January 1979 (percent)		Change from February 1977 (percent)	
Fiscal year	February 1977	CBO	Administration	CBO	Administration	February 1977	CBO	Administration	CBO	Administration	February 1977	CBO	Administration	CBO	Administration
1977	4.6	[1] 4.7	[1] 4.7	+0.1	+0.01	186.6	[1] 188.7	[1] 188.7	+1.2	+1.2	7.56	[1] 7.31	[1] 7.31	−0.25	−0.25
1978	5.2	[1] 4.2	[1] 4.2	−1.0	−1.0	195.6	[1] 205.8	[1] 205.8	+5.7	+5.7	6.66	[1] 6.20	[1] 6.20	−.46	−.46
1979	4.6	3.7	3.7	−.9	−.9	203.1	226.1	227.5	+12.8	+13.6	6.19	5.98	5.90	−.21	−.29
1980	5.0	1.7	2.3	−3.3	−2.7	210.9	244.5	244.7	+18.7	+18.8	5.67	6.75	6.20	+1.08	+.53
1981	5.0	4.1	3.9	−.9	−1.1	219.7	262.3	259.4	+23.7	+22.1	5.12	6.62	5.90	+1.50	+1.78

[1] Actual fiscal year 1977 and 1978 figures.

[2] The base CPI for food in fiscal year 1976 was 179.5. Since this was the only actual figure available at the time of the February 1977 estimates, it was used as a base line to compare current food price projections.

Changes in the cost of food are the basis for changes in the food stamp allotments. Projections of food-price inflation have changed dramatically from early 1977, when the economic assumptions for the appropriations ceilings were established. Using fiscal year 1976 as a base period, 1977 projections of food-price rises indicated a 16.9 percent increase by 1980 and a 21.8 percent increase by 1981. However, using the same base period, food-price rises are now expected to average more than double those rates, a 38.2 percent increase by fiscal 1980 and a 48.1 percent increase by fiscal 1981. A single percentage point change in food-price inflation rates has the potential of adding $60 million in benefit costs.

PAST FOOD STAMP PROGRAM EXPERIENCE WITH AN AUTHORIZATION OF APPROPRIATIONS CEILING

Congress, in the past, has proven to be alert to the vagaries of cost estimates and appropriations ceilings in the food stamp program.

From its inception in fiscal year 1965 through fiscal year 1971, the food stamp program was subject to ceilings on authorizations for appropriations, which were frequently increased as circumstances demonstrated the need for increased funding to serve the eligible population. This proved to be particularly necessary as the program evolved and expanded from 100 project areas (cities, counties, welfare districts) in fiscal year 1965 to 2,026 such areas in fiscal year 1971.

The original authorizations for appropriations for fiscal years 1965 through 1968 were not exceeded. In 1965, $75 million was authorized, $60 million was appropriated. In 1966, $100 million was both authorized and appropriated. In 1967 and 1968, the authorization ceiling was $200 million, but appropriations only reached $140 million and $185 million, respectively.

In the 1967 amendments to the Food Stamp Act of 1964, the authorization for appropriations for fiscal year 1969 was established at $225 million. By 1968, the law was amended to raise the limit to $315 million, and $280 million was ultimately appropriated. The same situation occurred on even a larger scale as the program grew during fiscal year 1970. The 1968 amendments to the 1964 Act imposed a $340 million ceiling on 1970 appropriations, but that was changed in 1969 to $610 million, with appropriations to the full amount. The original ceiling on appropriations for fiscal year 1971, $170 million for the first half of the year, was discarded later in favor of a ceiling of $1.750 billion, with accompanying appropriations of $1.670 billion.

In the six following fiscal years, 1972 through 1977, the food stamp program operated without specific authorization ceilings. However, as evidenced by the need for supplemental appropriations in four of those years, annual projections of program costs were often outpaced by the realities of inflation, unemployment, and geographic expansion.

In the most recent experience with a food stamp authorization ceiling, fiscal year 1978, program costs were significantly less than the authorization ceiling and the appropriation. In fact, a carryover of over $300 million occurred, even though the appropriation of $5.6 billion was more than $200 million below the 1978 authorization ceiling. This was partially due to the fact that the authorization ceiling was established assuming implementation of new program rules, including elimination of the purchase requirement, in fiscal year 1978; while they were not actually implemented until 1979. However, the 1978 experience points out that cost projections can also err on the high side.

WHY HAS THE 1979 "CAP" PROVEN TO BE INSUFFICIENT?

The two primary reasons for the unanticipated increased cost of the fiscal year 1979 food stamp program are (1) food-price inflation and (2) the number, and time of entry of new participants in the food stamp program. Other factors, such as unemployment rates, lack of growth in personal income, and the low income of new participants have also had significant effect on fiscal year 1979 costs.

When the Food Stamp Act of 1977 was enacted, the Congressional Budget Office predicted that food prices would rise between 3 and 4 percent per year for each of the 4 years of the bill. Administration estimates differed little from those of the Congressional Budget Office. However, food prices are now projected to rise at least 22 percent in the 2 years since the bill's passage. Had food prices risen at the rate originally predicted by CBO, rather than at the rate they have actually risen, the appropriation request for the food stamp program in 1979 would be at least $800 million lower, and there would be no danger of "breaching the cap" in 1979.

Rising food prices push up the cost of the thrifty food plan, the basis for allotments used in benefit calculations. The basic thrifty food plan cost for July through December 1979 was expected to be $200 in the President's most recent Budget submission. However, it will in fact go to $204 effective July 1, 1979. In addition, inflation contributes to heavier participation as the perceived need for aid increases. The combined impact of higher benefit costs (due to thrifty food plan increases) and higher participation have significantly raised the total program cost.

The Department of Agriculture is implementing the 1977 act in stages. The purchase requirement was eliminated in all States by January 1, 1979. Implementation of the other major eligibility changes contained in the 1977 act began March 1, 1979 and must be completed by June 30, 1979. Therefore, during January and February and for some recipients, through June, the food stamp program operated under regulations containing the eligibility requirements and other major provisions of the 1964 act *except* the purchase requirement.

In a June 5, 1979, letter from Secretary Bergland to Chairman Talmadge in response to questions raised about the program, the Secretary stated:

> Our preliminary participation reports show that approximately 2.262 million persons became participants in the Food Stamp Program during January and February 1979 for reasons other than normal seasonal growth in winter months. Additional data is now being collected that will indicate how many of these new participants will have become ineligible for benefits once the new eligibility provisions are fully implemented. Until this data has been analyzed, it is difficult to estimate the precise number of participants that will be removed from the program. Our current estimate is that approximately 6% of these new participants, or 132,000

persons will become ineligible for additional benefits once the new eligibility provisions are fully implemented.

New households are also entering the program earlier in fiscal year 1979 than was anticipated. The Department of Agriculture had assumed that 25 percent of the total number of new participants would be added to the program in January, February, and March, and anticipated a fairly even phase-in rate from January through June. The Congressional Budget Office had assumed an even slower phase-in rate. Since new participants have entered the program earlier than anticipated, they will be participating for a longer time in 1979 and that participation will have a greater cost effect in 1979 than originally projected.

In 1977 the Department of Agriculture estimated a net increase of 2.4 million new participants as a result of implementation of the new act. The Department now believes that the net increase will more likely be in the range of 3.0 to 3.5 million persons. These new participants have always been eligible to participate in the food stamp program but did not participate prior to implementation of the elimination of the purchase requirement chiefly because they could not afford to purchase their stamps.

In addition, the Department believes the persons coming into the program since January 1979 are poorer than had originally been estimated. The low incomes of these new participants are a factor of increased 1979 program costs. Since the new participants appear to be, by and large, somewhat poorer than originally expected, they will receive somewhat larger benefits than had been predicted.

Unemployment rates and changes in personal income are also important factors affecting food stamp program costs. It is estimated that as many as 750,000 participants could be added to program rolls by an additional percentage point in the unemployment rate. And, when personal income growth does not keep pace with inflation, more of the population is eligible for larger benefits than would otherwise be the case.

THE EFFECT OF INSUFFICIENT PROGRAM FUNDING

Section 18(b) of the Food Stamp Act of 1977 imposes the following requirement on the Secretary of Agriculture:

> (b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with provisions of this subsection.

Under section 18(b), if insufficient program funding is available, the Secretary must reduce the value of food stamp allotments received by all participating households.

Deputy Secretary of Agriculture Jim Williams stated before the Subcommittee on Nutrition on June 14, 1979, in reference to the current fiscal year program, that—

If the food stamp authorization ceiling in section 18(a) is not removed and funds are not appropriated, we have two basic alternatives:

—cut benefits in half for August and September, or
—close the program down for September.

CHARACTERISTICS OF THE HOUSEHOLDS THAT WOULD EXPERIENCE REDUCTIONS IN THEIR ALLOTMENTS

If increased program funding is not made available for the remainder of fiscal year 1979, all participating households will experience a drastic reduction in their benefits. Based on the latest available Department estimates, food stamp participants have the following characteristics:

(*a*) *Income.*—The majority of households participating in the foo stamp program have very low incomes. Over 52 percent of all households in the program have gross incomes of less than $300 a month, o $3,600 a year. Eighty-five percent of all participating households i the program have gross incomes of under $500 a month, or unde $6,000 a year. Less than 4 percent of all participating households hav monthly gross incomes that exceed $750 a month, $9,000 a year, an none of these households consist of less than four people. One-half o 1 percent of food stamp households have gross incomes in excess o $1,000 a month, $12,000 a year, and all of these households consist o seven or more people.

HOUSEHOLDS PARTICIPATING IN THE FOOD STAMP PROGRAM UNDER FOOD STAMP ACT OF 1977 PERCENT OF HOUSEHOLDS BY GROSS INCOME [1]

Gross monthly income	Equivalent annual gross income	Household size: 1	2	3	4	5	6	7	8 plus	Percent of all households	Cumulative percent of all households
0	0	2.2	2.7	3.0	11.6	8.5	5.8	4.7	2.6	4.5	4.5
$1 to $99	$1 to $1,199	4.3	7.1	7.2	7.4	5.5	2.4	4.1	1.2	5.7	10.2
$100 to $199	$1,200 to $2,399	19.5	16.0	10.6	9.2	6.8	6.5	2.8	3.0	13.5	23.7
$200 to $299	$2,400 to $3,599	57.8	26.8	12.2	8.7	13.6	7.3	7.1	6.3	28.4	52.1
$300 to $399	$3,600 to $4,799	14.5	33.1	32.1	17.2	10.4	11.5	7.7	8.7	21.2	73.3
$400 to $499	$4,800 to $5,999	1.7	10.9	21.0	20.5	15.6	14.7	14.7	10.8	11.7	85.0
$500 to $599	$6,000 to $7,199	0	3.2	10.1	11.3	18.0	21.4	12.9	11.1	6.9	91.9
$600 to $749	$7,200 to $8,999	0	.3	3.7	13.0	13.2	17.4	17.0	12.4	5.0	96.9
$750 to $999	$9,000 to $11,999	0	0	0	1.3	8.5	13.0	24.7	23.8	2.6	99.5
$1,000 plus	$12,000 plus	0	0	0	0	0	0	4.5	20.2	.6	100.1
		100	100	100	100	100	100	100	100	100	
Percent of all households		30.3	22.5	16.4	13.5	8.2	4.6	2.0	2.5		

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[1] Based on MATH simulation model for households as of July 1978.

Office of Policy, Planning and Evaluation, Food and Nutrition Service June 14, 1979.

The people participating in the food stamp program are poor. By virtue of a uniform 30 percent benefit reduction rate and the standard deduction, food stamp benefits are scaled so that the lowest income households receive the greatest benefits. For example, effective July 1, 1979, a four-person household with zero program income will receive $204 in monthly benefits; a similar household with program (net) income of $300 will receive $114 in monthly benefits; and a four-person household with monthly program income of $596, the maximum eligibility level, will receive a monthly benefit of $26. The per meal per person benefits for these four-person households would be 57 cents, 32 cents, and 7 cents, respectively. However, if reductions are necessary due to the lack of appropriated funds, reductions would have to be made on a pro rata basis thereby proportionally affecting all households equally regardless of need and taking most away, in absolute dollars, from the lowest income households.

LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

FOOD STAMP INCOME ELIGIBILITY STANDARDS: FOR THE 48 STATES AND THE DISTRICT OF COLUMBIA (JULY TO DECEMBER 1979)

		Gross income standard				At maximum income level	
Household size	Net income standard (special food stamp "poverty level" indexed through March 1979)	Standard deduction only ($70 per month)	Standard deduction ($70 per month), plus maximum dependent-care/excess shelter deduction ($90 per month)	Standard deduction ($70 per month), plus 20 percent earned income deduction [1]	Standard deduction ($70 per month), plus maximum dependent care/excess shelter deduction ($90 per month), plus 20 percent earned income deduction [1]	Household food stamp benefits per month	Food stamps benefits per meal per household member (cents)
1 person:							
Monthly	$306	$376	$466	$470	$582	$10	11
Annualized	3,672	4,512	5,592	5,640	6,984		
2 persons:							
Monthly	403	473	563	591	703		
Annualized	4,836	5,676	6,756	7,092	8,436	10	6
3 persons:							
Monthly	500	570	660	712	825		
Annualized	6,000	6,840	7,920	8,544	9,900	11	4
4 persons:							
Monthly	596	666	756	832	945		
Annualized	7,152	7,992	9,072	9,984	11,340	26	7
5 persons:							
Monthly	693	763	853	953	1,066		
Annualized	8,316	9,156	10,236	11,436	12,792	35	8
6 persons:							
Monthly	790	860	950	1,075	1,187		
Annualized	9,480	10,320	11,400	12,900	14,244	54	10
7 persons:							
Monthly	886	956	1,046	1,195	1,307		
Annualized	10,632	11,472	12,552	14,340	15,684	56	9
8 persons:[2]							
Monthly	983	1,053	1,143	1,316	1,428		
Annualized	11,796	12,636	13,716	15,792	17,136	73	10

[1] Assumes all income is earned.

[2] For each additional household member, add $97 per month ($1,164, annualized) to the net income standard.

(*b*) *Age.*—Over 20 percent of food stamp households are headed by a person over 60. Fourteen percent of households have heads aged 46–60 and over 43 percent of heads are between 26 and 45. Only 19 percent of the food stamp household heads are 25 or younger.

Age of household head:	*Percentage of all households*
25 or younger	18.6
26 to 45	43.5
46 to 60	17.0
61 or older	20.5

(*c*) *Race and Ethnicity.*—The largest group of food stamp households, nearly 49 percent, are white. Over 29 percent are black and over nine percent of Hispanic origin.

Race/ethnicity:	*Percentage of all participants*
White	48.8
Black	29.4
Hispanic	9.4
American Indian	0.9
Pacific Islander	0.1
All other	0.4
Unknown	11.0

(*d*) *Geographic Region.*—Over 32 percent of all food stamp participants live in the Mid-Atlantic Region, the area that includes such heavily populated States as New York and Pennsylvania. The Southeast contains over 20 percent of the participants, due to the high portion of persons with low incomes in this area. A smaller percentage of participating persons are found in the Midwest, 15 percent; the West, 12 percent; and the Southwest, nearly 11 percent. The smallest proportion of the food stamp population lives in New England, 5 percent, and the Mountain Plains Region, 4 percent.

(*e*) *Food expenditures.*—Among individual items, there is evidence that food stamp program participants buy less expensive types of food. The available data indicates that food stamp households spent less on bakery products and more on flour and other cereals. Their expenditures for beef steak and other beef and veal were lower, while higher percentages of the food budget were allocated for pork and poultry products.

Program participants also spent relatively more for eggs and fresh whole milk and relatively less on cheese, yogurt, and ice cream than did nonparticipants. There was no significant difference in the average expenditures for nonalcoholic beverages among the two groups; however, participants spent less on snacks (nuts, potato chips, pretzels, and other snacks) than did all nonparticipants.

ALLOCATION OF THE AT-HOME FOOD DOLLAR FOR FOOD STAMP PARTICIPANTS AND NONPARTICIPANTS

[In percent]

Food Group	Participants	Nonparticipant
Cereal and bakery products	12.9	11.9
Meats, poultry and fish	36.5	36.3
Eggs	3.5	2.6
Dairy products	13.8	13.7
Fruits	5.5	6.5
Vegetables	8.2	7.7
Sugars and sweets	2.7	3.0
Fats and oils	3.3	3.0
Other	13.6	15.3

(f) *Assets.*—Sixty percent of food stamp households have no liquid assets. Twenty-nine percent of food stamp households, compared to 67 percent of nonfood stamp households, own their own homes. Of these households having incomes of less than 125 percent of the poverty line, 25 percent of the food stamp participants, but 52 percent of nonparticipants, owned homes. Older households are more likely to own homes than younger households.

Food stamp households who do own homes tend to have less expensive homes, on average, than nonparticipating households. Although elderly food stamp households are more likely to own homes than younger food stamp households, the value of the elderly households' homes tend to be lower than the value of homes of younger homeowners. Just as food stamp homeowners had less expensive homes, they also had less equity in their homes.

Sixty-four percent of food stamp households reported owning no vehicles. In contrast, households with the same income as the food stamp households, but who did not participate in the program, were more likely to have vehicles.

Based on the data currently available, it appears that the asset limits serve as a substantial limiting factor restricting the eligibility of low-income households for the food stamp program. Data on liquid assets and homes do not show households with large amounts of liquid assets or expensive homes participating in the program. Data on cars are meager, but the new limit of $4,500 on all cars should eliminate from the program any households having large or extravagant cars. Further, the data indicate that even among low-income households, those participating in the food stamp program have fewer assets than households of equally low incomes who do not receive food stamps.

EFFECT ON CONSUMER EXPENDITURES FOR FOOD AND INCOME OF FARMER

Food stamps generate increased consumer expenditures on food and increased income for farmers.

Program appropriations of $620 million above the 1979 cap, a authorized by S. 1309, would result in consumer food expenditures o $217 million and income for farmers of $86.8 million. If $620 millio in 1979 food stamp funds are not approved, these benefits to the foo and agricultural sectors would be lost as food purchasing was con stricted. These figures take into account the fact that if food stam participants no longer receive full benefits, they might substitute som of their resources in place of stamps, in order to maintain their foo consumption at an acceptable level. However, if they do not make th substitute (for instance, because their other resources are very lin ited), then the adverse effects on the food and agricultural secto would be even more severe. If there was no substitution at all, a loss $100 million in funding would reduce food expenditures by $90 millio and farm income by $36 million. An $800 million loss would redu food expenditures by $720 million and farm income by $288 million.

A REAL AND IMMEDIATE ISSUE

The Congressional Budget Office and the administration are agreement that the current $6,158,900,000 ceiling on appropriations the 1979 food stamp program will be insufficient to provide full bene to participants through the end of this fiscal year. On June 12, 1979, Secretary of Agriculture issued an emergency rule directing the Sta to prepare for possible across-the-board cuts in food stamps in Aug and September. The Secretary's press release reads as follows:

[From U.S. Department of Agriculture News]

USDA PREPARES FOR POSSIBLE FOOD STAMP CUTS

WASHINGTON, June 12—Secretary of Agriculture Bob Bergland today announced an emergency rule directing states to prepare for possible across-the-board cuts in food stamps benefits in August and September.

"The cuts could be necessary," Bergland said, "chiefly because unexpectedly high food prices have boosted the cost of the program well above original budget projections and, without supplemental funding, the program is going to run out of money before the end of the fiscal year."

Any such cuts would affect all households equally, Bergland said, with reductions applied on a flat percentage basis. States would notify food stamp households of benefit cuts through the news media, direct mailing of notices or posters in food stamp offices.

Benefit cuts due to a shortage of funds would be unprecedented in the 15-year history of the program and would follow substantial cuts now being made in benefits for several million persons as a result of tighter eligibility and benefit rules implementing the 1977 Act.

Food stamp benefits, which currently average 33 cents per person per meal, are indexed to the cost of food. The Food Stamp Act of 1977 imposed a cap on program expenditures for each fiscal year based on estimates of food price inflation. At the time the law was enacted, that inflation was projected at three to four percent each year. However, food prices are now expected to rise 22 percent in the first two years since the bill's passage.

"I am hopeful that Congress will respond to our appeal for additional funding," Bergland stated, "but if it does not, we will have to reduce or cancel benefits at the end of this fiscal year to avoid violating the Food Stamp Act and the Anti-Deficiency Act. The action we take will depend upon the size of the budget shortfall and whether we absorb that shortfall over one or two months."

Although the new act terminated or reduced benefits for many higher-income households, it has resulted in increased participation by lower income households, thereby increasing program costs. Since January of this year, when the requirement that households purchase their stamps was dropped, several million persons have entered the program. These persons were previously eligible but had not participated because they could not afford to buy their food stamps. While a significant increase was anticipated, it has occurred at a faster rate than anticipated, and the new households will therefore receive benefits for more months of the fiscal year. Also, because these new households are somewhat poorer than anticipated, they qualify for larger benefits, further depleting dwindling food stamp funds.

Because states must prepare now for possible benefit cuts, the emergency procedures are being published as a final rule in the June 12 Federal Register. However, the department is inviting public comment and will reissue the rule in final form after considering all comments.

Comments should be submitted to Alberta Frost, acting deputy administrator, for family nutrition programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 by August 13.

[*See* Department of Agriculture emergency regulation dated June 12, 1979 in the Appendix to this report.]

ACROSS-THE-BOARD PRO RATA REDUCTIONS WOULD BE REQUIRED IF APPROPRIATED FUNDS ARE INSUFFICIENT

During this committee's consideration of the fiscal year 1980 budget for the food stamp program, a question arose as to the proper application of section 18(b) of the Food Stamp Act of 1977 if the actual appropriations available for any fiscal year are insufficient to provide the level of assistance otherwise required to be afforded all household certified as eligible to participate in the program.

Both the Acting General Counsel of the Department and th Deputy Comptroller General of the United States have conclude that, when reductions in the value of food stamp allotments ar required under section 18(b) of the act, the Secretary must direc State agencies to make such reductions across-the-board on a pro rat basis. The act, as now written, does not, in their opinion, afford th Secretary the discretion or flexibility to reduce the value of allotmen in any other manner.

See the March 16, 1979, memorandum from Norman L. Plotka, Ac ing General Counsel of the Department of Agriculture, to Carol Foreman, Assistant Secretary of Agriculture; and the March 28, 197 and April 3, 1979, letters from the Deputy Comptroller General of t United States, R. F. Keller, to Senator Muskie, chairman of the Se ate Committee on the Budget, in the Appendix to this report.

EXCESS SHELTER EXPENSE AND MEDICAL EXPENSE DEDUCTIONS FOR T ELDERLY AND THE DISABLED

Prior to the implementation of the eligibility and benefit provisi of the Food Stamp Act of 1977, all households participating in food stamp program could deduct the amount of their actual shel costs that exceeded 30 percent of their program income (after ot deductions), without limit, and the amount of their actual medi expenses when they exceeded $10 per month. In effect, this allo varying, sometimes substantial, portions of income to be disregar in eligibility and benefit determinations.

Under the 1977 act, participating households can deduct the amo of their actual shelter costs in excess of 50 percent of their prog income (after other deductions), up to $80 per month ($90 per mo effective July 1, 1979), if no dependent-care deduction is claimed. new law incorporates the pre-existing medical expense deduction a $65 per month standard deduction ($70 per month effective Ju 1979).

The increase from 30 to 50 percent in the trigger-point for the excess shelter expense deduction coupled with the imposition of a ceiling on the amount allowable for that deduction and the elimination of a separate medical expense deduction has resulted in severe hardship for many participating households that contain an elderly or disabled person.

The situation has been further aggravated for these households by the establishment in the 1977 act of a uniform 30 percent benefit reduction rate. Under the 1964 act, the benefit reduction rates ("purchase requirements") were established so that they increased as household income and size increased. No participating household had a benefit reduction rate of 30 percent and the average was less than 25 percent. Due to the small size of elderly and disabled households, they had benefit reduction rates that were substantially below the 30 percent maximum, and even well below the average.

During the consideration of the 1977 act, Congress recognized that some households would be rendered ineligible for program participation and that some households would lose benefits under the new provisions. However, the extreme severity of the benefit reductions now being experienced among the elderly and disabled was not foreseen.

Many of these households are faced with disproportionately high medical and shelter costs and have few options for reducing them. Although the absolute number of households containing an elderly or disabled person that have been rendered ineligible or experienced substantial reductions in their benefits as a result of the 1977 act appears to be small, the households involved are placed in a situation that is totally untenable. With their limited resources, they must choose between purchasing food and paying their medical and shelter bills. It is too often the case that they choose paying their medical and shelter bills. Inadequate nutrition can contribute to medical problems of the elderly and the disabled and thereby increase the cost of their medical care.

Since medical expenses are not separately deductible under the 1977 act, these households find themselves with little or no relief.

PERCENT OF ELDERLY AND SSI HOUSEHOLDS (AS DEFINED IN S. 1309) LOSING OR GAINING FOOD STAMP BENEFITS OR BECOMING INELIGIBLE UNDER THE FOOD STAMP ACT OF 1977 BY REGION

	Elderly households still eligible							
Monthly gain or loss	New England	Mid-Atlantic	Southeast	Midwest	Southwest	Mountain Plains	West	Total
$50 or more loss								
$30 to $49 loss		0.3	0.1		0.2		0.3	0.2
$16 to $29 loss	1.7	1.7	2.1	2.0	1.2	1.0	1.6	1.7
$5 to $15 loss	33.0	19.6	19.2	15.8	18.9	18.1	19.9	19.1
$4 loss to $4 gain	53.8	68.1	56.5	66.4	58.9	67.6	61.8	62.5
$5 to $15 gain	11.5	9.5	20.3	14.9	19.4	13.0	15.1	15.4
$16 to $29 gain		.5	1.4	.5	1.1	.3	.9	.8
$30 to $49 gain		.2	.4	.3	.4		.4	.3
$50 or more gain		.1		.2				.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Elderly households made ineligible							
Total	5.9	2.6	0.5	2.5	2.0	2.7	2.5	1.9

Committee Consideration

HEARINGS

(1) On June 1, 1979, the Subcommittee on Nutrition held a hearing in Miami, Florida, on the effect of the implementation of the 1977 act on the elderly. The hearing was chaired by Senator Stone. Testimony was received from elderly food stamp recipients who have experienced reductions in their allotments due to the implementation of the new law, a representative of Senator Chiles, a representative of the State of Florida Department of Health and Rehabilitation Services, a representative of a neighborhood association, and a local program administrator.

The recipient witnesses testified that they could not get along on their meager food stamp allotments and that they ran out of food stamps 3 weeks into every month. The witnesses discussed how the elimination of the medical expense deduction has forced them to choose between food and medical care and drugs. None of these witnesses indicated that they were able to supplement their food stamps substantially with out-of-pocket food purchases. One witness stated that she had survived on little more than soup since her food stamp allotment was reduced from $54 to $10 in March 1979.

(2) The Subcommittee on Nutrition held a hearing on S. 1309 on June 14, 1979, which was chaired by Senator McGovern. Testimony was received from Deputy Secretary of Agriculture Jim Williams and representatives of the Oklahoma Department of Public Welfare and the Louisiana Department of Health and Human Resources.

Deputy Secretary Williams stated that the administration favors increasing the funding level for the 1979 program. S. 1310, the administration's food stamp bill (which was introduced, by request, by Senator Talmadge) would, among other things, remove rather than increase the 1979 cap on authorized appropriations. State agency witnesses also supported an increased authorization for fiscal year 1979 that would provide full funding for the program.

COMMITTEE MARK-UP

The Committee on Agriculture, Nutrition, and Forestry met on June 20, 1979, to mark-up S. 1309.

(1) *Raising the 1979 cap*

The committee voted to increase the cap on authorized appropriations for the fiscal year 1979 food stamp program by $620 million. The $620 million increase in the 1979 program cap is based on the lates high-end estimate for the 1979 program of the Congressional Budge Office; it is $30 million below the administration's high-end estimate

The high-end estimate is based on an assumption of a continua increase in food stamp participation through the remainder of fisca year 1979—increasing from 19.1 million persons in March to an average of 20 million persons in the final quarter. The estimate is als based on an assumption that the cost savings of the 1977 act (approximately $105 million during this fiscal year) have already bee achieved in the months January through April. It further include the assumption that any seasonal decline in participation, whic normally occurs in the summer months, would be offset by increases in unemployment and continual increases in participation associated with the elimination of the program's previous purchase requirement. The $620 million increase is intended to give authority for sufficient program funding to ensure the receipt of full program benefits by participants for the remainder of the fiscal year.

(2) *Excess shelter and medical expense deductions for the elderly and disabled*

The committee agreed to an amendment that was offered by Senator Stone. That amendment was S. 1346, as introduced by Senator Stone, with a modification that would limit the applicability of the new excess medical expense deduction to medical expenses for those household members who are 60 years of age or over or who receive SSI benefits, rather than the medical costs of all household members in households containing an elderly or SSI recipient member. As accepted by the committee, the limitation on the amount of the excess shelter expense deduction for households containing a member who is 60 years of age or older or who receives SSI benefits would be removed, and those households would be allowed to deduct the actual cost of "allowable medical expenses" of the household members who are 60 years of age or older or who receive SSI benefits.

(3) *Manner in which reductions in the value of allotments may be accomplished when required under section 18(b) of the Food Stamp Act of 1977*

The committee voted to accept an amendment offered by Senator Lugar that would permit the Secretary to make reductions in the value of food stamp allotments on other than a pro rata basis (by weighting reductions toward higher-income recipients) *if* such reductions become necessary under section 18(b) of the Food Stamp Act of 1977 due to any insufficiency of appropriated funds.

Under the amendment, the Secretary is also required to submit reports, by the 15th day of each month, on food stamp program costs for the second preceding month. In each monthly report, the Secretary is to state whether there is any reason to believe that reductions in the value of allotments will be necessary due to any insufficiency of appropriated funds.

Not less than 60 days after the issuance of a monthly report in which the Secretary expresses his belief that reductions in allotments will be necessary due to the insufficiency of appropriated funds, the Secretary is required to take the requisite action to reduce allotments.

Within 7 days of taking any action to reduce allotments due to the insufficiency of appropriated funds, the Secretary would be required to submit a statement to the congressional agriculture committees setting forth the basis for his determination, the manner in which allotments will be reduced, and the action he has taken to reduce the allotments.

The Secretary would, of course, be expected to exercise reasonable judgment in arriving at a belief that benefit reductions would be necessary. In this regard, the Secretary may consider a variety of factors, including seasonal fluctuations in program participation, economic forecasts, cumulative expenditures, and supplemental appropriations. Obviously, reductions in benefits should not necessarily commence after the first monthly report showing that more funds were expended in a particular month than an amount equal to 1/12 of the funds previously appropriated for the program for that fiscal year.

The Lugar amendment—while authorizing the Secretary to develop a manner for reducing food stamp allotments on other than a pro rata basis and requiring monthly reports from the Secretary intended to keep Congress informed of program expenditures and the availability of appropriated funds—does not change the standard to be followed by the Secretary in making a finding that the requirements of participating States will exceed available appropriations. Section 18(b) of the act currently requires the Secretary to direct State agencies to make reductions in the value of allotments to be issued to households certified as eligible to participate in the food stamp program, if the Secretary finds that insufficient appropriations are available. In this connection, the committee notes that the Acting General Counsel of the Department of Agriculture, in his memorandum opinion of March 16, 1979, to Assistant Secretary Carol Tucker Foreman, stated that "the Secretary would be expected to make such finding at such time as he has information reasonably leading him to the conclusion that it is necessary to act in order to avoid exceeding the statutory limitation."

SECTION-BY-SECTION ANALYSIS

Section 1(1).—Increase in the fiscal year 1979 authorization for appropriations for the food stamp program

Section 1(1) amends the first sentence of section 18(a) of the Food Stamp Act of 1977 to increase the fiscal year 1979 authorization for appropriations by $620 million. The new appropriations ceiling for the 1977 program would be $6,778,900,000.

Section 1(2).—Removal of carryover authority; Secretary's reporting responsibilities

Section 1(2) strikes the third sentence of section 18(a) of the Food Stamp Act of 1977 to remove the specific language, beginning with fiscal year 1980, providing for the carryover of unexpended appropriated funds from one fiscal year to the next, and inserts two new sentences. The Secretary of Agriculture would be required to file monthly reports, by the 15th day of each month, setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the current fiscal year. In each monthly report, the Secretary would also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the program will be necessary due to any insufficiency of appropriated funds. (It is anticipated by the committee that each monthly report will include the number of individuals participating in the program and the cost of administering the program at the State level and at the national level.)

Sections 1(3) and 1(4).—Manner in which allotments may be reduced when appropriated program funds are insufficient

Section 1(3) amends the second sentence of section 18(b) of the Food Stamp Act of 1977 to remove the requirement that the only available method for reducing program benefits when insufficient funds are available is on a pro rata basis.

Section 1(4) would add new subsections (c), and (d) to section 18 of the Food Stamp Act of 1977. New subsection (c) would require the Secretary to ensure that reductions in the value of allotments, when required under section 18(b), will reflect, "to the maximum extent practicable," the ratio of household program income to the income standards of eligibility for households of the same size with higher-income households bearing more of the reductions. The Secretary may establish (1) special provisions for the elderly, handicapped, and disabled and (2) minimum allotments after any reductions are otherwise determined.

New subsection (d) requires the Secretary to take the requisite action to reduce the value of allotments issued to households certified to participate in the food stamp program within 60 days after the issuance of a report, under section 18(a) as amended by the bill, in which the Secretary expresses his belief that such reductions will be necessary.

New subsection (d) also requires the Secretary, within 7 days of any action to reduce the value of allotments issued to households certified to participate in the program, to furnish the congressional agriculture committees with a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the value of the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

Section 2. Deductions for households containing an elderly person or a person receiving Supplemental Security Income benefits

Section 2 amends section 5(e) of the Food Stamp Act of 1977 to provide households that contain an elderly person (60 years of age or older) or a person receiving Supplemental Security Income benefits, including those who receive only State supplementary payments, under title XVI of the Social Security Act with an excess medical expense deduction and to remove the ceiling on the excess shelter expense deduction for these households.

In addition to the standard deduction and the dependent care deductions, these households would be entitled to (1) an excess medical expense deduction for the actual cost of allowable medical expenses incurred by the elderly or SSI recipient household member that exceed $35 per month and (2) an excess shelter expense deduction to the extent that the monthly amount expended by the household for shelter exceeds 50 percent of monthly household income after all other applicable deductions have been allowable. Currently, there is a ceiling of $80 per month on the amount of the excess shelter expenses deduction that may be claimed.

Section 2 further provides that the $35 threshold for the excess medical expense deduction will be adjusted each July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index for the items other than food for the 6 months ending the preceding March 31 and September 30, respectively. (The committee expects that the Secretary, in administering the excess medical expense deduction, would provide that deductions be allowed for medical expenses incurred or billed as soon as possible, so long as third-party reimbursements or insurance payments, whether to the recipient or care provider, are verified. In some cases, this could result in deductions not being granted until a bill had actually been paid, in order to ascertain the extent of a reimbursement or insurance payment. However, it would keep the treatment of excess medical expense deductions as consistent as possible with the prospective accounting system used throughout the food stamp program, while protecting against deductions for expenses not actually paid by the recipient.)

Section 3. Definition of "allowable medical expenses"

Section 3 adds a new subsection (q) to section 3 of the Food Stamp Act of 1977 to define "allowable medical expenses" as used to determine the excess medical expense deduction.

New subsection (q) defines "allowable medical expenses" as expenditures for (1) medical and dental care (this would include other remedial care recognized by State law), (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding costs of health and accident or income maintenance policies), (5) medicare coverage, (6) dentures, hearing aids, and prosthetics (including securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aid, housekeeper, or child care services due to age, infirmity, or illness.

Section 4. Effective date

Section 4 provides that the provisions of the bill will take effect on the date of enactment, except that sections 2 and 3 of the bill, dealing with excess medical and shelter expense deductions for the elderly and disabled, will take effect on the first day of the first month that begins after the date of enactment.

REGULATORY IMPACT STATEMENT

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 1309.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and businesses. Aside from the submission of medical and shelter expense data, there will be no effect on personal privacy as a result of the enactment of the bill.

The enactment of S. 1309 would necessitate administrative changes in the food stamp program that may result in some increased Federal paperwork. Eligibility forms for program participation would have to be modified due to the provisions of the bill establishing separate excess shelter expense and medical expense deductions for participating households that contain elderly persons or persons who receive Supplemental Security Income benefits. Federal paperwork could also be increased by the requirement in the bill for the submission of monthly reports on food stamp program operations. However, this requirement is not anticipated to increase Federal paperwork substantially since the Department of Agricutlure already collects and distributes the required data.

New regulations would also have to be promulgated in order to implement new deduction procedures and establish methods for varying any necessary benefit reductions under the provisions of new section 18(c), and States and localities would have to revise their procedures accordingly.

DEPARTMENTAL VIEWS

The Committee has not received a report from the Department of Agriculture on S. 1309. However, Deputy Secretary of Agriculture Jim Williams, before the Subcommittee on Nutrition on June 14, 1979, expressed the Administration's support for an increase in the 1979 authorization for appropriations. The Administration's food stamp bill would have removed the ceiling on the authorization for appropriations. Deputy Secretary Williams' prepared statement reads as follows:

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to discuss the funding crisis the food stamp program faces in the final months of this fiscal year.

The costs of the food stamp program are rising in 1979, and will substantially exceed the costs predicted when the Food Stamp Act of 1977 was enacted. While there are a number of reasons for this, the most basic reason is the upsurge in food prices since 1977. When the Food Stamp Act of 1977 was enacted, the Congressional Budget Office predicted that food prices would rise between 3 percent and 4 percent per year for each of the four years of the bill (Administration estimates were similar). It was on the basis of the CBO estimates that the specific figures in the food stamp "cap" were calculated.

However, food prices are now projected to rise 22 percent in the first two years since the bill's passage. Had food prices risen at the rate originally predicted by CBO, rather than at the rate they have actually risen, the cost of the food stamp program in 1979 would be over $800 million lower, and we would not be in danger of breaching the cap in 1979. Increased food prices are the single most important factor that has increased food stamp costs.

A second factor affecting 1979 program costs is the fact that the new households are entering the program sooner in the fiscal year than anticipated. We had assumed that 25 percent of the total number of the new participants would be added to the program in January, February, and March. We assumed a fairly even phase-in rate, which would have had about 80 percent of the new participants added by July 1, in constant increments from January through June. The Congressional Budget Office assumed an even slower phase-in rate. However, data now in hand for January, February, and March, as well as early data from April, indicate most new participants had actually entered the program by April.

Another factor now also exerting upward pressure on costs is the impact of the elimination of the purchase requirement—particularly in rural areas. When the 1977 Food Stamp Act was enacted, the Department estimated a new increase of 2.4 million new participants due to the new Act. This represented the net effect of both increases in participation due to the end of the purchase requirement, and of decreases due to the termination of households with the highest income levels. However, due in significant part to the rapid growth of participation in rural areas, we now believe the net increase will more likely be in the range of 3.0–3.5 million persons. Preliminary reports show that between December and February, participation increased 33 percent in sparsely populated rural areas, but only 7 percent in cities.

Historically, rural areas have had far lower participation rates than urban areas. A study conducted by the University of Mississippi in 1974 found that the elderly poor in rural areas had particular difficulty in participating. The Department has received reports from a number of State food stamp administrators in recent months that many elderly persons now appear to be entering the program.

It is important that the Subcommittee understand that these new participants are not persons who are newly eligible. The 1977 Act did not expand eligibility for foods stamps; it reduced it. There are now over 3½ million fewer persons eligible than before. The new participants have always been eligible for food stamps, but they did not participate chiefly because they could not afford to purchase their stamps.

Indeed, these new persons now coming onto the program are poor—in fact, they appear to be somewhat poorer than we had anticipated. They are not persons at the upper end of the food stamp eligibility scale. The low incomes of the new recipients are a factor in increasing food stamp costs. Since the new participants are, by and large, somewhat poorer than expected, they receive somewhat larger benefits than had been predicted.

The main reasons, of course, that the benefits of the new EPR families are significantly higher than had been predicted when the 1977 Act was passed is food price increases. The rise in food prices has significantly increased the cost of each new household signing up for food stamps.

While 17.5 million persons participated in January and 18.5 million in February, and 19.1 million in March, the rate of increase has slowed significantly since then. Preliminary data indicate that 19.2 million persons participated in April and that the May figure, when available, will represent little or no increase over the March figure.

Nevertheless, the fact that the new participants entered the program more rapidly than expected—and hence will participate for more months in 1979 than expected—is another factor with a cost impact.

Let me note in passing that program costs for fiscal year 1979 will be somewhat lower than they would have been had all program changes been implemented in October 1978, as originally planned, since the elimination of the purchase requirement will be in effect for nine months of this fiscal year rather than twelve.

Most States eliminated the purchase requirement (EPR) on January 1. Implementation of the tighter eligibility and benefit provisions began on March 1. This was done for several reasons.

The Administration had planned to implement both EPR and the eligibility changes at the beginning of the 1979 fiscal year. However, due to the complexity of overhauling all food stamp eligibility and benefit rules, and the lead-time States needed to implement them, this turned out not to be possible.

During the period for comments on the proposed regulations, States insisted they needed more time to implement eligibility changes due to the need to completely rewrite all manuals, retrain staff, redesign and print forms, and program computers. Because the Department felt that insufficient lead-time could result in a susbtantial increase in errors. States were allowed until March 1 to implement the new eligibility rules. This was the absolute minimum lead-time States said they needed.

But, many States also commented that EPR could be implemented far more rapidly and was administratively simple. Therefore, they requested that EPR be implemented earlier. In addition, the Department, States and other commenters were concerned that EPR be implemented in time for the winter, with its increased heating bills. The Department received substantial comment that the purchase requirement creates the most severe hardship in the winter, when some poor families are forced to choose between paying heating bills and purchasing food stamps.

After the Department's General Counsel specifically considered and approved this approach, the Department directed States to implement the elimination of the purchase requirement by January 1 and the eligibility and benefit provisions as soon as possible, but no later than March 1.

Two final factors increasing food stamp costs are inflation in nonfood costs, and the recent flooding in several parts of the country. As shelter and utility costs rise, food stamp shelter deductions increase. In addition, the floods have necessitated the emergency issuance of food stamps to thousands of households, especially in Mississippi and Alabama.

For these reasons, the Department now estimates a need for $6.809 billion in budget authority for the food stamp program in fiscal year 1979. With an additional $338 million in carryover funds, this will provide available funding of $7.147 billion. This represents the funding necessary to assure that across-the-board benefit reductions do not occur this summer. This is very similar to the $7.12 billion level that CBO has indicated the program could cost in fiscal year 1979.

Section 18(a) of the Food Stamp Act limits budget authority for 1979 to $6.159 billion. This falls $650 million below the estimated funding need.

In accordance with provisions of the 1977 Act, the Department is now setting up the machinery to reduce benefits or terminate the program this summer. On June 12 the Department issued regulations requiring all States to add a new final calculation into their computers that enables them to reduce benefits to all households by a specified percentage if the Secretary so directs. We will be requiring States to take these steps now, so that benefit reductions can be put into effect on August 1, if necessary.

If the food stamp authorization ceiling in section 18(a) is not removed and funds are not appropriated, we have two basic alternatives:

Cut benefits in half for August and September, or
Close the program down for September.

The Administration does not favor these alternatives. We strongly believe that the necessary funds should be provided so that food stamp benefits, which currently average 33 cents per person per meal, are not slashed for the elderly, the disabled, the unemployed, the working poor, and the welfare mothers and their children. These are the people who comprise the overwhelming bulk of the food stamp recipient population. Food stamp recipients are poor. Over half of all families in the program have gross incomes of less than $3,600 a year. Three-quarters have gross incomes below $4,800 a year. This is well under half of the $11,546 yearly income the Bureau of Labor Statistics reports an urban family of four needed in 1978 to live on a low budget. With these stiff cutbacks in the nutritional support that the food stamp program provides, these families cannot live without suffering.

While seeking legislation to change the food stamp "cap" provisions, the Department is also proposing legislation to make other basic changes in the food stamp program. The legislation is designed to reduce error and fraud in the program, and realize savings. The changes we propose would save over $150 million in 1980 and larger amounts in succeeding years. The centerpiece of these provisions is a major campaign to drive down food stamp error rates. The legislation establishes a system for imposing fiscal liability on States with high error rates that fail to reduce them below a prescribed target.

Our legislative proposal also provides States with more tools with which to lower their error rates. It provides a State option for monthly retrospective accounting and periodic income reporting. In areas with the necessary computerized capability to operate this system, important error rate reductions can be achieved.

The Administration bill also provides States with more tools and incentives for anti-fraud activities. The bill requires applicants to provide social security numbers and it would be an intention to give States access to Social Security wage records and unemployment compensation records so that computer matching can be conducted, and ineligibles weeded out.

The bill also requires that a person disqualified from food stamps for fraud must, as a condition of eligibility, repay the amount of stamps fraudulently received in order to be reinstated in the program after the disqualification period ends.

Finally, the bill provides that States shall keep 50 percent of all fraud claims they collect. This should operate as a significant incentive to recover more of these claims.

These provisions, which comprise Title I of the bill, have been designed cooperatively with the Department's Inspector General.

Title II of the proposed bill removes the specific dollar authorization ceilings for food stamps in Section 18(a) of the Act. However, we wish to emphasize that we are retaining in full the language added in 1977 by the Congress in Sections 4(a) and 18(b) of the Act. This language places a clear Congressional limitation on food stamp entitlements. The language specifically limits food stamp allotments in any fiscal year to the amounts appropriated for that year. If insufficient amounts are appropriated, benefits would have to be reduced. In this sense, Congress' effort to make food stamps operate more as a discretionary program rather than as an entitlement program would still be served. The change we are proposing is simply to remove the specific dollar ceilings, and not to remove or undo the entire "cap" amendment. The experience of the past two years has shown that the specific dollar ceilings are not workable. It is simply not possible to forecast the economy in advance with sufficient precision to establish rational ceilings.

These new provisions we are proposing are in addition to the many provisions of the 1977 Act that tighten the program significantly.

We have received data from some States on the results of the provisions reducing the income limits and replacing itemized deductions with standard deductions. In Florida, 55 percent of the caseload had benefits reduced or terminated (most of these cases involved benefit reduction, not benefit termination). In New Hampshire, the figure was 80 percent. In Maine, 75 percent of the caseload was adversely affected, while 72 percent in Oregon were reduced or terminated. These are all States that converted their caseloads by computer, and hence have data available at this time on the impact of the new provisions.

Overall, several million persons will be subjected to benefit reductions or terminations.

Significant benefit reductions are already taking place. We do not believe it would be sound policy to impose further, deeper benefit cuts because food prices have risen faster than anticipated because more poor persons in rural areas are now enrolling for food stamp benefits for which they had always been eligible.

We are vigorously enforcing implementation of these new income eligibility requirements. We directed States to implement the new rules for all new applications and recertifications no later than March 1 and to complete conversion of the entire food stamp caseload no later than June 30. These new rules have been implemented everywhere in the United States, with the sole exception of some counties in Wisconsin. The State of Wisconsin is now under fiscal sanctions from the Department.

In addition, the Secretary wrote last month to every State Welfare Commissioner in the Nation warning that he would take rather severe actions if a State failed to complete the full conversion process on schedule. Savings from a full and timely completion of the conversion process have been figured into our estimates.

I would also note that the Department has proposed over $500 million in reductions in other Food and Nutrition Service programs as part of the 1980 budget, and that the Congressional Budget Committee Resolution incorporates many of these reductions. These reductions come from families who are far less in need than those on food stamps. For example, while about 12 percent of the population is eligible for food stamps, between 30 percent and 40 percent of all school children are eligible for free and reduced-price lunches. Our proposal for modest reductions in the eligibility limits for these meals would save $165 million.

Similarly, we provide $700 million a year in school lunch subsidies to families who are essentially over twice the poverty line. These families receive about as much per lunch in subsidy as the average food stamp recipient with far less income receives for each meal. Our proposal merely to reduce the school lunch subsidy for families in these middle and upper income brackets from 32 cents a lunch to 27 cents a lunch saves an additional $146 million.

Authorizing legislation to bring about changes and resulting savings in the Summer and WIC programs has already been adopted by the full Senate as part of S. 292. We appreciate Chairman McGovern's leadership on this issue, and the fact that the Chairman has held oversight hearings on our budget recommendations. We certainly hope the Chairman will give the Committee and the Senate an early opportunity to consider our child nutrition legislative proposals which were proposed March 28 and which include additional budget savings, some of which are reflected in the first concurrent budget resolution, and also administrative changes.

Earlier, I noted how low the incomes of food stamp families are. These families also have few assets. Sixty percent have no liquid assets at all. Sixty-four percent do not own a car. Seventy-one percent do not own a home. Elderly food stamp households are more likely to own larger amounts of liquid assets or homes than other food stamp recipients.

Sometimes we hear discussion of students or strikers receiving food stamps. But the number of students receiving stamps has been steadily reduced in the last few years due to new provisions enacted by Congress. Students and strikers combined now comprise under 1 percent of the food stamp caseload.

Moreover, the majority of adult food stamp participants are either working full time or are unable to work because of age, disability, or responsibility for children or incapacitated adults. Only 15 percent of all heads of food stamp households are employable persons who are unemployed.

Six weeks ago, a team of doctors who had examined hunger and malnutrition among poor children in America in the late 1970's, and who recently conducted a follow-up study, testified before this Subcommittee that the food stamp program has been a striking success in reducing the hunger and malnutrition that scarred many of America's poor areas 10 years ago.

The doctors reported a 33 percent decline in infant mortality, and stated that "infant deaths from diarrhea, influenza, pneuomonia and immaturity, many related directly to poverty and malnutrition, have declined 50 percent or more." These changes have not been due to any overall improvement in living standards, the doctors said, but rather to food programs and especially to food stamps. The doctors observed that "the food stamp program does more to lengthen and strengthen the lives of disadvantaged Americans than any other noncategorical social program," and "is the most valuable health dollar spent by the federal government."

This Department is determined to run a tight, efficient food stamp program. The legislative proposal we are presenting will give us important new tools to reduce food stamp overpayments. But we do not support cutbacks in food stamp benefits. Such cutbacks would turn the clock back on the work of the past 10 years, work which—perhaps more than anything else done in this country over the past decade—demonstrates the compassion and qualities that make this country great.

COST ESTIMATE

I

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee estimates the costs of carrying out the provisions of S. 1309, as amended, as follows:

[In millions of dollars]

Fiscal years:	
1979	280 to 620
1980	[1] 55
1981	[1] 55

[1] These estimates assume an increase in the ceilings on appropriations for the 1980 and 1981 fiscal years. Reauthorization of the food stamp program is required for the 1982 and subsequent fiscal years.

. 1309 increases the fiscal year 1979 authorization for appropria- s for the food stamp program by $620 million, from $6,158,900,000 36,778,900,000. The bill also (1) provides an excess medical expense uction for households containing a person 60 years of age or older who receives Supplemental Security Income benefits, to the extent t the actual costs of allowable medical expenses for those persons eed $35 per month, and (2) removes the ceiling on the amount of excess shelter expense deduction for those households.

The committee estimates that the increased 1979 authorization for propriations will result in increased program costs of approximate- $280 to $620 million in fiscal year 1979. The committee further esti- tes that the new deduction schedule for households containing erly or disabled members, if fully implemented in fiscal year 1980, ll result in increased program costs of approximately $55 million nually.

The committee understands that there will be some administrative sts associated with carrying out the provisions dealing with excess dical and shelter expense deductions for the elderly and disabled. owever, neither the Congressional Budget Office nor the committee s a sufficient basis for estimating these costs.

The committee's cost estimate is consistent with the cost estimate epared by the Congressional Budget Office.

II

In a letter to Chairman Talmadge dated June 25, 1979, the Direc- r of the Congressional Budget Office, Alice M. Rivlin, stated that cessary supplemental appropriations for the 1979 program could be the range of $200 million to $620 million over the current author- ation ceiling. The letter to the Chairman reads as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 25, 1979.

lon. HERMAN E. TALMADGE,
hairman, Committee on Agriculture, Nutrition and Forestry,
.S. Senate,
Vashington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your staff's request sking our office to prepare a range estimate for the fiscal year 1979 ood stamp supplemental, assuming the current law's authorization eiling were eliminated.

In our official cost estimate of S. 1309 on June 22, we indicated that a upplemental of $660 million—$280 million over the authorization eiling—would be required this year. We did indicate, however, that ncertainty existed in this point estimate because of the continual im- plementation of the new food stamp law coupled with increasing uncer- tainty in the future status of the general economy.

Under alternative scenarios, the needed supplemental could range between $600 million and $1.0 billion; $220 million to $620 million over the current law's authorization ceiling. This range estimate will have a very high probability of including the final actual figure.

The high-end estimate is based on an assumption of continual in- crease in food stamp participation throughout the remainder of the fiscal year—increasing from 19.1 million persons in March to an average of 20.0 million persons in the final quarter. The high-end estimate is also based on an assumption that cost savings of the new law (approximately $105 million this fiscal year) have already been achieved in the months January through April. The high-end estimate further includes the assumption that any essential decline in participation, which normally occurs in the summer months, would be offset by increases in unemployment and continual increases in participation associated with the elimination of the program's previous purchase requirement.

Two of the assumptions underlying the low-end estimate are similar to those for the point estimate provided Representative Mathis last week. A decline in participation because of normal seasonal factors and a reduction in participation associated with the new law's eligibility and benefit provisions are assumed.

The low-end estimate also assumes unemployment would remain at its current level of 5.8 percent for the remainder of the fiscal year. Recent estimates indicate that a one percentage point increase (decrease) in the national unemployment rate could increase (decrease) food stamp costs by about $500 million on an annual basis. The high-end estimate and point estimate provided Representative Mathis are based on the assumption that unemployment would increase to 6.3 percent in the final quarter.

The range and point estimate do not attempt to control for changes in program error rates that might be occurring with the new program.

I hope this information will be of assistance to you. If you have any further questions, please let us know.

With best wishes,

Sincerely,

ALICE M. RIVLIN, *Director.*

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate for S. 1309:

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 22, 1979.

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared this cost estimate for S. 1309, a bill to amend the Food Stamp Act of 1977.

DESCRIPTION OF BILL

The bill contains three major sections. The first section would increase the fiscal year 1979 authorization ceiling from $6,158.9 million to $6,778.9 million. The bill leaves unchanged the authorization ceilings for fiscal year 1980 and 1981.

The second section of the bill would increase food stamp benefits to households containing a member 60 years of age or over or a member receiving supplemental security income (SSI) benefits. The bill would permit these households to deduct certain medical and additional shelter expenditures for determining program eligibility and benefits.

The final section of the bill mandates certain reporting procedures for the Secretary of Agriculture to follow in informing the Congress of ongoing program costs and the possible need to reduce food stamp benefits to remain within authorization ceilings. This final section would have no measurable cost impact on the federal budget.

SECTION 1 COST ESTIMATE

At the current time there is a great deal of uncertainty concerning the amount of funds needed to operate the food stamp program for the remainder of fiscal year 1979. This uncertainty results from the ongoing recertification of food stamp households under new provisions of the Food Stamp Act of 1977 and the potential for continued increased participation resulting from the new provision that removed the requirement that households purchase their food stamps. Also, uncertainty in the general economy generated by fuel and energy problems could result in significant changes in the needed funds.

Section 1 of S. 1309 would permit $620 million in appropriations over those that are allowed under the existing law. Based on preliminary program data through the month of March, we estimate that needed appropriations will increase by $280 million over the existing authorization ceiling. Federal budget outlays associated with this additional appropriation would be $278 million. Section 1 of S. 1309 would, therefore, result in increased program costs of approximately $280 million in fiscal year 1979. This estimate is subject to revision in early July as new economic assumptions are developed and more current program data become available.

SECTION 2 COST ESTIMATE

Section 2 of the bill would increase program costs in fiscal year 1979 very slightly, but, if fully implemented in fiscal year 1980, would result in increased program costs of approximately $55 million. This estimate is based on the assumption that the Secretary of Agriculture would act quickly to implement section 2 of the bill by the beginning of August 1979. The time schedule for implementing section 2 is specified within the bill. Delay in meeting the required time schedule would reduce the fiscal year 1980 cost impact.

Data used to develop this estimate were derived from medical and shelter expenditures on a sample of food stamp households in September 1976, inflated to fiscal years 1979 and 1980. Also, it should be noted that the actual impact of section 2 of the bill on the federal budget is predicated on action of the Congress to modify the current law's authorization ceiling of $6,189.0 million in fiscal year 1980. We currently project that the current program's costs will exceed the 1980 authorization ceiling if the ceiling were eliminated. Without a modification of the authorization ceiling, section 2 of S. 1309 will have no impact on the federal budget.

In total, then, the actual federal budget impact of S. 1309 is to increase program costs by approximately $280 million in fiscal year 1979. I hope this information will be of assistance to you. If you have questions concerning the cost estimates, please let us know.

With best wishes,

Sincerely,

ALICE M. RIVLIN, *Director.*

Rollcall Votes

In accordance with section 113 of the Legislative Reorganization Act of 1946, as amended, it is announced that—

(1) The committee ordered the bill reported by a vote of 15 to 2 as follows:

Yeas: Senators Talmadge, McGovern, Huddleston, Stone, Leahy, Zorinsky, Melcher (by proxy), Stewart, Pryor, Boren, Young, Dole (by proxy), Lugar, Cochran, and Boschwitz.

Nays: Senators Helms and Hayakawa (by proxy).

(2) A motion to (1) allow the Secretary to accomplish reductions in the value of allotments, if such action is required under subsection 18(b) of the Food Stamp Act of 1977 due to the insufficiency of appropriated funds, on other than a pro rata basis, (2) authorize the Secretary to prescribe (A) special provisions applicable to the elderly and disabled and (B) minimum allotments when reductions in the value of allotments becomes necessary; (3) require the Secretary to file monthly reports, by the 15th day of each month, on food stamp program costs for the preceding month, including the Secretary's belief as to whether reductions in food stamp benefits will be necessary; (4) require the Secretary to take requisite action to reduce benefits within 60 days of the issuance of a monthly report in which the Secretary indicates that benefit reductions will be necessary; and (5) require the Secretary, within 7 days of taking action to reduce benefits, to report to the congressional agriculture committees on (A) the basis for the action, (B) the manner in which the allotments will be reduced, and (C) the action that has been taken to reduce the allotments was adopted by a vote of 16 to 1 as follows:

Yeas: Senators Talmadge, Huddleston, Stone, Leahy, Zorinsky, Stewart, Pryor, Boren, Helms, Young, Dole (by proxy), Hayakawa, Lugar, Cochran, Boschwitz, and Jepsen (by proxy).

Nays: Senator McGovern.

MINORITY VIEWS OF SENATORS HELMS, HAYAKAWA, LUGAR, BOSCHWITZ, AND JEPSEN

THE FOOD STAMP PROGRAM IS OUT OF CONTROL

The Committee on Agriculture, Nutrition, and Forestry is asking the Senate to accept legislation which will pave the way to increasing fiscal year 1979 Federal appropriations for the food stamp program by $999 million.

S. 1309 will lead to the continued mismanagement of the food stamp program by the Food and Nutrition Service; it will provide FNS all the additional millions the FNS has requested. Approval of such an immense amount of the taxpayers' money is certain to lead to future requests for still more funds. It is distressing that the Food and Nutrition Service continues to 'cry wolf" to obscure the impact of its dismal program management.

It is frustrating to those of us who believe the program can and should be managed in a fiscally responsible manner. Thus, this dissent—a warning that the Senate will err if it approves the expenditure of such a massive amount by an obviously irresponsible Federal agency.

I. THE REASON FOR S. 1309: A SURGE IN PARTICIPATION

The administration contends that the food stamp program will exceed its budgetary constraints almost solely due to food price inflation. This is a misrepresentation that should not delude the Senate.

While it is true that food prices have dramatically increased since the time of the original appropriation, it is not accurate to say that the impact of this inflation on the program can be blamed as the only, or even the major, factor in this fiscal disaster.

The Congressional Budget Office has disclosed that program participation has far exceeded all original estimates. Beginning in January of this year, when new FNS regulations were implemented nationwide, an astonishing surge in program participation began. In January, February, and March 3,200,000 new recipients were added to the food stamp rolls—an increase of 20 percent. Not surprisingly, monthly program costs soared by 25 percent over the same 3-month period.

This tremendous surge in program participation is a direct result of deliberately defective administrative judgments by USDA officials. Specifically, last December and January, the FNS implemented only that part of the 1977 Food Stamp Act requiring elimination of the food stamp purchase requirement. However, until March, FNS did not implement the recipient recertification provisions required by that act.

Thus, FNS created and operated for part of this year a hybrid food stamp program that incorporated participation-expanding characteristics of the old and new programs while deliberately ignoring participation-limiting characteristics of both. This hybrid program was so radically different from both the old and the new programs that it clearly did not reflect the intent of Congress.

FNS officials knew that the separate implementation of these provisions of the 1977 act were not consistent with Congressional intent. On October 26, 1977, USDA's Office of the General Counsel informed Mrs. Foreman that eliminating the food stamp purchase requirement in advance of implementing other provisions of the 1977 Food Stamp Act would be "legally objectionable." In spite of the clarity and detailed statutory analysis found in that memorandum, regulations requiring separate implementation of these provisions were drafted and promulgated.

When these regulations were submitted to the Office of the General Counsel they were given the weakest imaginable approval. In a memorandum to Mrs. Foreman, the Acting General Counsel said:

> While not free from legal doubt, we believe there is a reasonable legal basis for the position that the revised schedule is consistent with the current implementation requirements of the act.

Also, in *Indiana Welfare Rights Organization, Inc.*, v. *Robert Bergland, et al.*, the Seventh Circuit Court of Appeals ruled that the purchase requirement need not be eliminated before other provisions of the 1977 Food Stamp Act were implemented. The Court's opinion stressed the interrelationship of the act's provisions that FNS chose to implement separately. Also, the Court was obviously impressed with another point: The Court's opinion notes:

> The Secretary argues that had EPR (elimination of the purchase requirement) been implemented before the other reforms as plaintiffs urged, the food stamp program would have been significantly inflated by the addition of more needy persons without the elimination of the nonneedy and the congressional objectives of a simplified, efficient, and cost-effective program would have been undermined.

So, in spite of overwhelming legal authority specifying congressional intent, FNS officials proceeded with the separate implementation of these intertwined provisions of the 1977 act.

Determining the exact cost of this administrative blunder is impossible. However, the nature of unnecessary program costs that were incurred are identifiable. They are:

First. A higher benefit schedule applied to all new program participants;

Second. The rapid participation growth in December, January, and February was experienced months before necessary;

Third. A portion of the new participants who entered the program in December through February were ineligible under new certification rules.

From the data available, the Congressional Budget Office could analyze only the first two of these factors. But even with this restricted analysis, CBO was able to identify $275 million greater program costs than would have been experienced had the provisions of the 1977 Food Stamp Act been implemented simultaneously in March.

This projected $275 million extra cost figure is a very conservative estimate because it does not include costs that will be experienced after

May. Also, it does not include the expense of an enormous number of ineligible new participants certain to occur.

But, what about the effect of food price inflation? What was its impact on the program?

Such inflation did occur, but scarcely in excess of the food inflation data contained in FNS's calculation of the movement of the Consumer Price Index (CPI) for food. In preparing the budget request for fiscal year 1979, FNS used estimates projected by the Office of Management and Budget (OMB), which represent the administration's estimates for the CPI for food. These projections were calculated in August 1978. This same CPI for food price forecasting was used in early October to analyze the budget impact of the elimination of the purchase requirement for participants in the food stamp program. FNS could have used more current projections when analyzing this impact and certainly should have. Had this been done, a more realistic assessment of the number of participants entering the program would have been available to the FNS planners.

II. CONCERNS AND FRUSTRATIONS: MISMANAGEMENT OF THE FOOD STAMP PROGRAM

The food stamp program is the most visible example of bureaucratic mismanagement that exists today. It is so regarded by the majority of Americans. Those of us who are held directly responsible by our constituents for waste and extravagance in the spending of taxpayer dollars have a duty to explain this kind of government extravagance. S. 1309 does not explain it. S. 1309, unless amended, will condone it.

A very serious problem exists, in our view, as to the degree to which the officials of the FNS appear to be willing to blackmail Congress into providing more and more food stamp funds. Every effort has been made by FNS to intimidate Congress into appropriating the millions of dollars needed to cover FNS's ineptitude, and that Congress—not FNS—will be held responsible for benefit reductions. And, because FNS has chosen to interpret Section 18 of the 1977 act in such a way as to require a pro rata reduction in the benefits in the event of a shortfall of funds, FNS has deliberately chosen to hold the most truly needy hostage in a reckless scheme to force Congress to issue a blank check for food stamp spending.

America's taxpayers are justifiably concerned about this extortion-like tactic, and so are we. We implore Congress to view these tactics for what they are.

Moreover, State food stamp administrators are up in arms over the maladministration and the pressure tactics employed by FNS. Representatives from various State food stamp agencies testified before the Nutrition Subcommittee June 14, as to the difficulties they have in dealing with the FNS and in managing the program in a fiscally responsible manner.

The burden of incompetent regulation and red tape the food stamp officials have had to endure from the FNS has been escalating. The whole program is made immensely more costly and extravagant by a regulatory tangle that—

Prohibits home visits to certify eligibility;

Hinders verification of income, car values and citizenship;

Renders adjudication of fraud cases so costly as to eliminate any cost-benefit;

Encourages "expedited services" which require that food stamps must be issued on the same day on which application is made, and

Contains outreach "guidelines" which seek to add 10 million new recipients by 1980.

For example, Oklahoma food stamp administrators reported, and a Louisiana official confirmed, that under existing regulations county food stamp officials cannot accept, without red tape and inordinate delay, the food stamps of a recipient who attempts to return his stamps because he got a job and is no longer eligible. No wonder FNS seeks another $999 million!

Another example is the consumption weights used in the calculations of the thrifty food plan (TFP) exaggerate the cost of that model food package. Under the current index, the weights applied to the different food groups are based on a food consumption survey taken back in 1965. Since 1965, retail beef prices have increased $1 per pound while retail chicken prices have increased only 28 cents per pound. As a result of price changes in these two categories being so different since 1965, food stamp recipients are obviously consuming more foods from the poultry category and less foods from the red meat category than in 1965.

By using this 14-year-old survey to set the consumption weights between the food categories, the cost of the so-called thrifty food plan is too high, thus adding unnecessarily to program costs above the intent of Congress. The point is, precious little effort is being made to manage the program in the most fiscally responsible manner possible, as intended by Congress.

During the mark-up of S. 1309, a number of committee members—on a bipartisan basis—indicated their frustrations with the program. Especially noted was the extent to which the general public is disgusted at the continuing abuse in this program. We concur. Congress simply must restore integrity to the food stamp program.

III. IMPROVEMENTS BROUGHT TO THE PROGRAM BY S. 1309

Chairman Talmadge offered a helpful amendment to S. 1309 that ameliorated somewhat the original proposal to increase the authorization for 1979 by $620 million. The Talmadge modification, effective in fiscal year 1980, removes language contained in the Food Stamp Act of 1977 allowing the carryover of unexpended, appropriated funds from one fiscal year to the next.

This provision in the 1977 Act enabled FNS to cushion the program but it also made it more difficult for Congress to obtain accurate information about unobligated funds. The Talmadge amendment is certainly a step in the direction of more sound fiscal management of the program by the Congress.

Senator Lugar's amendment, adopted by a roll-call vote of 16-1, offers better tools for the Secretary and FNS to provide for reduction in benefits in the event food stamp program costs exceed Congressional appropriations. The Lugar amendment allows the Secretary to accomplish reductions in the value of allotments, due to the insufficiency of appropriated funds, on other than a pro rata basis. Pro rata, across the board reductions are unreasonable since they force equal percentage reductions to all recipients, regardless of need or other circumstances. Such a formula imposes larger reductions upon the most needy. This is a cruel method of reducing benefits, but was a linchpin in the FNS strategy to intimidate Congress to gain increasing appropriations.

The Lugar amendment will allow the Secretary to prescribe special provisions applicable to the elderly, handicapped and disabled. The amendment also requires the Secretary to advise Congress if and when it appears that benefit reductions would be necessary, and requires the Secretary to implement benefit reductions within 60 days in the event of excessive spending.

The committee also adopted an amendment offered by Senator Stone to permit elderly and disabled persons to deduct medical and dental costs above $35 per month and excess shelter costs above existing limits in calculating their income base for food stamp allotments. This amendment was offered to reduce hardship in affected households caused by excessive medical bills and housing costs. Whether the food stamp program is the appropriate vehicle to remedy such problems, is open to question. However, the Stone amendment was approved unanimously.

IV. THE FUTURE: WHAT CAN BE DONE?

During committee mark-up of S. 1309, the Ranking Minority Member remarked: "Why is it Mr. Chairman, that we never find the FNS officials coming before us to say they *can* do something to manage the program as Congress intended? They inevitably plead that they can't do anything to solve these kinds of problems—except spend more money."

Are the taxpayers justified in wondering why these officials demonstrate no ability to do anything but spend money? Where, we would ask, will it ever end? Are we on our way to a $12 billion food stamp program within the next fiscal year?

Many in Congress are trying to grapple with the program's complexities. As an example, Senator Hatch, a member of the Senate Committee on the Budget, requested that the Secretary of Agriculture provide him with specific data on the savings to the program that would result from a number of changes the Senator recommended.

The belated response to Senator Hatch's letter arrived just one day shy of 3 months after his request. Needless to say, the Secretary's comments could not be made part of the Budget Committee's hearing record—the purpose Senator Hatch had intended. Here is what Senator Hatch had to say in remarks to the Senate on June 21:

> After three months delay, I find that the Department of Agriculture did not really answer my questions at all. Most of the answers are nothing more than political rhetoric offered as criticism of the opinions for which cost estimates were solicited.
>
> I believe that the responses to my questions are a further indication of the bureaucratic mismanagement and incompetence in the food stamp program which has resulted in the large cost overruns predicted by the Department. The Department seems unable to provide cost estimates for any options that might save money in the food stamp program, but

> it is very adept at projecting its increased funding needs for the program. It seems that the Department can be of no assistance to those who wish to consider options for change in the food stamp program that would result in cost savings.

Unless the Congress is willing to send a clear, unmistakable signa to the Food and Nutrition Service to the contrary, Congress migh as well anticipate continued growth and expansion of the food stam program beyond its present scope and beyond the intent of Congres

Our belief is supported by the Department's promulgation of regu lations to expand the "outreach" activities of the program. Th can only lead to a greatly increased number of recipients. All th while, program administrators have been assuring Congress that th tremendous surge in participation, described earlier, has "levele off." The fact is: Outreach guidelines and targets published in th Federal Register on April 10, 1979, call for an increase of 10,806,0 participants in fiscal year 1980—an increase of 50 percent by ne year.

This type of activity goes far beyond Congressional intent, a may undermine the total effectiveness of the program. While S. 13 does not specifically relate to outreach goals, the point should be ma that its passage will only encourage more people to apply for fo stamps. Program costs, as a result, are sure to rise even more in future.

In that event, the only recourse would be improvement in progr administration, tightened eligibility, and dogged pursuit of fraud abuse. And, at a minimum, we believe the following areas of conc and possible remedy should be actively considered by both the C gress and the Department of Agriculture:

1. A cross check of CPI food inflation figures with a vari of sources, including ESCS within USDA, Chase Economet Data Resources, Inc., and Wharton Econometrics in the priv sector;
2. Efforts for better verification of eligibility of applica and to permit State agencies to be more thorough in their in tigations;
3. Improved methods to retrieve benefits issued in error;
4. Permit recovery of benefits from recipients with high come or assets;
5. Restoration of the purchase requirement;
6. Elimination of duplicative nutritional program benefits;
7. A reasonable and effective work requirement for prog participants.

We intend to pursue these matters at the appropriate time. I meantime, we urge members of the Senate to join in those efforts. minimum, each Senator should state in the strongest terms po his or her objections to waste and mismanagement in the food s program.

JESSE HELMS.
S. I. HAYAKAWA.
RICHARD G. LU
RUDY BOSCHWIT
ROGER W. JEPSEN

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FOOD STAMP ACT OF 1977

* * * * * * *

DEFINITIONS

SEC. 3. As used in this Act, the term:

* * * * * * *

(g) "Allowable medical expenses" means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.

* * * * * * *

ELIGIBLE HOUSEHOLDS

SEC. 5. * * *

* * * * * * *

(e) In computing household income, the Secretary shall allow a standard deduction of $60 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction determined by the Secretary in accordance with the best available information on the relationship of actual or potential itemized deductions claimed under the food stamp program in those areas to such deductions in the forty-eight contiguous States and the District of Columbia. Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding

March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households, *other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act*, shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction shall not exceed $75 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, amounts determined by the Secretary in accordance with the best available information on the relationship of the actual shelter costs in those areas to such costs in the forty-eight contiguous States and the District of Columbia, adjusted annually (commencing July 1, 1978) to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve-month period ending the preceding March 31, or (3) a deduction combining the dependent care and excess shelter expense deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection. *Households containing member who is sixty years of age or over or who receives supplementa security income benefits under title XVI of the Social Security Ac shall also be entitled to—*

(A) an excess medical expense deduction for that portion of th actual cost of allowable medical expenses, incurred by household members who are sixty years of age or older or who receive supplementa security income benefits under title XVI of the Social Security Act exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1, and January 1 to the neares $5 to reflect changes in the Consumer Price Index published by th Bureau of Labor Statistics of the Department of Labor for items othe than food for the six months ending the preceding March 31 an September 30, respectively;

(B) a dependent care deduction, the maximum allowable level which shall be the same as that for the excess shelter expense dedu tion contained in clause (2) of the preceding sentence, for the actu cost of payments necessary for the care of a dependent, regardless the dependent's age, when such care enables a household member

accept or continue employment, or training or education that is preparatory for employment; and

(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.

* * * * * * *

AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. (a) To carry out the provisions of this Act, there are hereby authorized to be appropriated not in excess of $5,847,600,000 for the fiscal year ending September 30, 1978; not in excess of **[**$6,158,900,000**]** *$6,778,900,000* for the fiscal year ending September 30, 1979; not in excess of $6,188,600,000 for the fiscal year ending September 30, 1980; and not in excess of $6,235,900,000 for the fiscal year ending September 30, 1981. Not to exceed one-forth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 17 of this Act. **[**Sums appropriated under the provisions of this Act shall, notwithstanding the provisions of any other law, continue to remain available until expended.**]** *The Secretary shall, on the 15th day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.*

(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. **[**If**]** *Notwithstanding any other provision of this Act,* if in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

APPENDIX

This appendix contains (1) a March 16, 1979, memorandum from Acting General Counsel, Norman L. Plotka, to Assistant Secretary of Agriculture, Carol T. Foreman; (2) the March 28, 1979, and April 3, 1979, letters from the Deputy Comptroller General of the United States, R. F. Keller, to Senator Muskie, Chairman of the Senate Committee on the Budget; (3) an October 26, 1977, memorandum from General Counsel, Sarah Weddington, to Assistant Secretary of Agriculture, Carol Tucker Foreman; (4) an October 11, 1978, memorandum from Acting General Counsel, Harold M. Carter, to Assistant Secretary of Agriculture, Carol Tucker Foreman; (5) the decision of the Seventh Circuit Court of Appeals in *Indiana Welfare Rights Organization, Inc.* v. *Bergland;* (6) a description of the status of the 1979 appropriations; (7) a description of the 1979 budget resolution; (8) the June 12, 1979, emergency rulemaking, Procedures for Reduction or Cancellation of Allotments to Eligible Households, issued by the Department of Agriculture; and (9) examples of income calculations under the food stamp program.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., March 16, 1979.

Subject: Food Stamp Act of 1977, Section 18(b).
To: Carol T. Foreman, Assistant Secretary.

This responds to your informal request for our opinion concerning implementation of section 18(b) of the Food Stamp Act of 1977. Section 18(b) reads as follows:

"(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection." (7 U.S.C. 2027).

While the statute is not specific as to the method by which the Secretary would be required to reduce the value of allotments, we believe that a close reading of section 18(b), as well as other provisions of the Act, leads to the conclusion that any reduction should be accomplished on a pro rata basis. Any other position would be most difficult to defend in a court or other competent tribunal.

The first sentence of section 18(b) provides that the Secretary shall "limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year." The second sentence dealing with reduction if necessary, commands the Secretary to direct State agencies "to reduce the value of *such* allotments" (underscoring supplied). Significantly, the statute does not speak of eliminating some allotments but of reducing the value of *all* allotments. Further, section 18(b) provides that the value of the allotments shall be reduced only "to the extent necessary to comply with the provisions of this subsection." Anything other than a prorata reduction would appear to go beyond this restriction.

Moreover, the Act in detailed manner sets forth eligibility standards in sections 5 and 6, and requires that "assistance under this program shall be furnished to all eligible households" (sec. 5(a); see also section 2, Declaration of Policy). Section 5(c) provides that the income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget. Section 5(d) provides that household income for purposes of the food stamp program shall include all income from whatever source excluding only ten categories of items. Section 5(e) provides that in computing household income the Secretary shall allow a standard deduction of $60.00 (subject to semi-annual adjustments based on the Consumer Price Index). Additional deductions for earned income, dependent care and excess shelter costs are also specified. Section 5(g) sets forth specific requirements for the Secretary to follow in prescribing the types and allowable amounts of financial resources an eligible household may own.

Section 3(o) of the Act defines "Thrifty Food Plan" and provides that "The cost of such diet shall be the basis for uniform allotments for all households." Section 8(a) provides that "The value of the allotment which the State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty fund plan reduced by an amount equal to 30 percentum of the household's income as determined in accordance with section 5 of this Act".

Elimination of allotments to some eligible households, or the reduction of some allotments more than others, based on categories of eligible households or other criteria, appears contrary to the framework of the Act and incompatible with the requirements of the Act, in the event a reduction in the value of allotments becomes necessary.

With respect to when the Secretary would be required under Section 18(b) to direct reductions in the value of allotments, the section directs the Secretary to do so when he finds that the allotment requirements of participating States for any fiscal year will exceed the appropriation for such fiscal year. The Secretary would be expected to make such finding at such time as he has information reasonably leading him to the conclusion that it is necessary to act in order to avoid exceeding the statutory limitation.

NORMAN L. PLOTKA,
Acting General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 28, 1979.

A-51604.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget,
U.S. Senate.

DEAR SENATOR MUSKIE: You have requested our opinion on th program implications of maintaining the appropriation authoriza tion limitations for FY 1980 and 1981 now imposed on the Foo

Stamp Program by sections 4(a) and 18 of the Food Stamp Act of 1977, title XIII of Pub. L. No. 95–113, approved September 29, 1977, section 1301, 91 Stat. 961, 979, to be codified at 7 U.S.C. §§ 2011, *et seq.*

As you point out, the Food Stamp Program has been run as an entitlement program; that is, the enabling legislation provides benefits to any person meeting the eligibility requirements established by the Food Stamp legislation, regardless, in effect, of the cost to the Government.

Section 401 of the Congressional Budget Act of 1974, 31 U.S.C. § 1351 (1976), placed new restrictions on congressional consideration of entitlement authority. When the Food Stamp Amendments of 1977 were enacted, Congress for the first time placed a ceiling on appropriations authorized for this entitlement program. The authorized appropriation ceilings contained in that law were, approximately $5.848 billion in fiscal year 1978; $6.159 billion in fiscal year 1979; $6.189 billion in fiscal year 1980; and $6.236 billion in fiscal year 1981. You state that these statutory authorization ceilings were based on projected costs for the food stamp program at the time the 1977 amendments were enacted. At this time, however, both the Department of Agriculture and the Congressional Budget Office estimate that the appropriation authorization ceilings for fiscal year 1980 and 1981 will be exceeded by substantial amounts if the program continues to operate under its current guidelines.

You state that the President's budget for fiscal year 1980 recommends repealing permanently the authorization ceilings and leaving the level of funding for the food stamp program to the annual appropriations process. Your initial question is:

"* * * what the program implications would be, under current law, of maintaining the statutory authorization ceilings for FY 1980 and FY 1981, assuming that these ceilings would be exceeded under current program guidelines."

In enacting the 1977 Act, the Congress changed the nature of the food stamp entitlement program not only by the inclusion of the appropriation authorizations, mentioned above, for each of 4 years, but by enacting a provision which ties the program's expenditures directly to the amount of funds appropriated. Thus, the provisions of subsection 18(b), 7 U.S.C. § 2027(b), provide:

"(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection."

Of course, the Congress can choose to appropriate funds at, below, or above the amounts which are authorized to be appropriated. However, once the appropriation for the program has been enacted, the ceilings would have little practical effect. The programmatic implications arise from the actual amounts appropriated. Once the appropriation is passed, subsection 2027(b) is very clear about the Secretary's options if he finds that the requirements of the participating States will exceed the amounts appropriated: the Secretary must direct the States to reduce the value of the allotments to be issued to eligible participating households to the extent he deems necessary to keep from exceeding the amount appropriated. Even without subsection 2027(b), of course, the Secretary would have to be sure that expenditures did not exceed appropriations. See, for example, the provisions of 31 U.S.C. § 665(a) (1976), which provide that no officer or employee of the United States may make or authorize an expenditure or an obligation under any appropriation in excess of the amount available therein.

Accordingly, the only viable option given to the Secretary under this statute is to make reductions in allotments when he realizes that sufficient funds have not been appropriated to carry out the program at the then current level. Obviously, the timing of this decision is critical. The later in the fiscal year the decision is made, the greater the impact (in terms of substantially lower benefits) will be on eligible households.

In this regard you state that you understand that the General Counsel of the Department of Agriculture and the Counsel for the Senate Committee on Agriculture, Nutrition and Forestry believe that there are only two options available to the Department under current law: (1) across-the-board pro rata reductions in benefits to all participants, and (2) simple discontinuance of the program at the point in the year in which funding expired. Except in an unusual situation, we doubt that full funding of the program until the money is expended (and then program discontinuance) would be authorized. Not only is there a particular provision requiring a reduction in benefits to all participants when the Secretary realizes there will be insufficient funds to maintain the program at its planned rate, but there are general provisions of law which require that agencies spend money at a rate which would prevent them from running out of money by the end of the year. 31 U.S.C. § 665 (1976). The Office of Management and Budget, in exercise of its budgetary management oversight functions, has the responsibility to apportion funds at a rate that assures that an agency does not run out of funds before the end of the year. See 31 U.S.C. § 665(c).

Although you did not raise the question in your letter, we have now learned that you are also interested in knowing whether, if appropriations are not sufficient to cover program costs, the Secretary must mak pro rata reductions in the value of food stamp allotments or whethe he has some flexibility to reduce allotments on some other basis. Th Department of Agriculture has indicated its desire to present its view to us before we render our opinion on this matter. We expect th Department's report in the next few days and we will render ou opinion on that issue as promptly as possible.

Accordingly, in our view, the reduction of the value of allotments t be issued to eligible households is the only viable option available t the Secretary of Agriculture if the funds appropriated to carry ou the Food Stamp Act are not in fact sufficient to run the program at i full rate. We trust that we have been responsive to your inquiry.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 3, 1979.

B-51604.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget,
U.S. Senate.

DEAR CHAIRMAN MUSKIE: This is in further response to your request for our opinion on the program implications of maintaining the appropriation authorization limitations for FY 1980 and FY 1981 now imposed on the food stamp program by sections 4(a) and 18 of the Food Stamp Act of 1977 (Act) title XIII of Pub. L. No. 95-113, approved September 29, 1977, section 1301, 91 Stat. 961, 979, to be codified at 7 U.S.C. §§ 2011 *et seq.* You were specifically concerned with the method to be used in implementing subsection 18(b) of the Act, 7 U.S.C. § 2027(b).

Under subsection 18(b), the Secretary of the Department of Agriculture (Department) is directed to limit the value of all allotments issued to amounts not in excess of the total appropriation for the fiscal year in question. If at any time, he finds that the requirements of participating States are likely to cause him to exceed the limitation he set if the program continues at the same rate,

> "* * * the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection."

The question is on what basis may the reduction be accomplished. The position of the Department is that—

> "* * * a close reading of section 18(b), as well as other provisions of the Act, leads to the conclusion that any reduction should be accomplished on a pro-rata basis. Any other position would be most difficult to defend in a court or other competent tribunal.
>
> "The first sentence of section 18(b) provides that the Secretary shall 'limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year.' The second sentence, dealing with reduction if necessary, commands the Secretary to direct State agencies 'to reduce the value of *such* allotments' (italics supplied). Significantly, the statute does not speak of eliminating some allotments but of reducing the value of *all* allotments. Further, section 18(b) provides that the value of the allotments shall be reduced only 'to the extent necessary to comply with the provisions of this subsection.' Anything other than a pro-rata reduction would appear to go beyond this restriction.
>
> "Moreover, the Act in detailed manner sets forth eligibility standards in sections 5 and 6, and requires that 'assistance under this program shall be furnished to all eligible households' (sec. 5(a); see also section 2, Declaration of Policy). Section 5(c) provides that the income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Man-

agement and Budget. Section 5(d) provides that household income for purposes of the food stamp program shall include all income from whatever source excluding only ten categories of items. Section 5(a) provides that in computing household income the Secretary shall allow a standard deduction of $60.00 (subject to semi-annual adjustments based on the Consumer Price Index). Additional deductions for earned income, dependent care and excess shelter costs are also specified. Section 5(g) sets forth specific requirements for the Secretary to follow in prescribing the types and allowable amounts of financial resources an eligible household may own.

"Section 3(o) of the Act defines 'Thrifty Food Plan' and provides that 'The cost of such diet shall be the basis for uniform allotments for all househsolds.' Section 8(a) provides that 'The value of the allotment which the State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty fund [food] plan reduced by an amount equal to 30 per centum of the household's income as determined in accordance with section 5 of this Act'.

"Elimination of allotments to some eligible households, or the reduction of some allotments more than others, based on categories of eligible households or other criteria, appears contrary to the framework of the Act and incompatible with the requirements of the Act, in the event a reduction in the value of allotments becomes necessary."

Another viewpoint was expressed by the minority counsel to the House Committee on Agriculture, in a letter to Senator Helms, member of the Committee on Agriculture, Nutrition, and Forestry. He maintains that the imposition of a pro rata reduction in allotments is not the only interpretation to be made of subsection 18(b). He states that—

> "* * * I am of the opinion that section 18(b) may be subject to an interpretation that the Secretary has certain flexibility in how he may reduce food stamp allotments. One might question the viability of a legal interpretation that argues that if Congress were not to increase the authorization 'cap' for fiscal year 1980 and that reductions in allotments had to be made, it was Congress' sole intention that every food stamp recipient's allotment be reduced by a pro rata amount. One might also question whether it is reasonable to assume that a Secretary of Agriculture, who must after all implement such a reduction based on his own interpretation, would not interpret such a section if faced with that hard decision so as to effect a just and equitable result, not necessarily that calling only for an inflexible pro rata reduction.
>
> "I submit that the pro rata interpretation of section 18(b) is not the sole, inescapable interpretation of section 18(b). I submit that another interpretation allowing flexibility for the Secretary to use existing funding for other than pro rata reductions can be argued to be reasonable, legally justifiable, and one that gives effect to the legislative intent of Congress in enacting the Food Stamp Act of 1977."

Subsection 18(b) of the 1977 Act is modeled, in part, on subsection 16(b) of the Food Stamp Act of 1964, 7 U.S.C. § 2025(b) (1976). That subsection read as follows:

"(b) In any fiscal year, the Secretary shall limit the value of those coupons issued which is in excess of the value of coupons for which households are charged, to an amount which is not in excess of the portion of the appropriation for such fiscal year which is transferred to the separate account under the provisions of subsection (a) of this section. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set forth herein, the Secretary shall direct State agencies to reduce the amount of such coupons to be issued to participating households to the extent necessary to comply with the provisions of this subsection."

Since the program was adequately funded in the past, we were informally advised that the Department was never required to direct State agencies to reduce the amount of coupons issued to participating households. Therefore, it does not have any practical experience in implementing the above provision.

Subsection 16(b), which was in an earlier version of the bill (H.R. 7940) to amend the Food Stamp Act of 1964, was deleted by the House Committee on Agriculture because under subsection 16(b)—

> "* * * if the funds are not transferred to the separate account in advance, the Secretary, pursuant to section 16(b), would be forced to halt the issuance of bonus food stamps by the states (he could continue to allow them to issue food stamps in the exact value of the charges collected for such stamps) or else, as provided by the second sentence of section 16(b), 'direct State agencies to reduce the amount of such coupons to be issued to participating households to the extent necessary to comply with the provisions of this subsection.'" H. Rep. No. 95–464, 95th Cong., 1st Sess., 415 (1977).

Subsequently, subsection 18(b) was adopted in Conference. The House Conference Report, H. Rep. No. 95–599, 95th Cong., 1st Sess., 203 (1977), does not provide any insight on the mechanics of implementing subsection 18(b).

As the House Agriculture Committee minority counsel points out in his letter, subsection 18(b), in and of itself, is not restrictive. That subsection does not specifically say that reductions in allotments must be made on a pro rata basis. As he points out, our Office has generally held that where an appropriation act is not specifically directive, it is assumed that the Congress intended the agency to have flexibility in carrying out the statutory purposes. But subsection 18(b) is not part of an appropriation act. It is part of permanent substantive legislation, the Food Stamp Act of 1977, which among other purposes, makes extensive amendments to the existing food stamp program. Subsection 18(b) must therefore be read in context.

Read as a whole, the Act is quite restrictive. While it is true, as the minority counsel states, that the legislative history of the Act "is replete with expressions of concern for the poor, the elderly, and the disabled," these concerns are reflected in the intricate income standards and eligibility criteria of sections 5 and 6. Once a household is determined to be eligible for an allotment on the basis of uniform national standards, the Department is required to furnish such a household with assistance if it applies for participation under the program. (Section 5(a).) This is one reason that the necessary reduction cannot be accomplished by eliminating one category of otherwise eligible participants altogether.

If reduction were possible other than on a pro rata basis, it might be possible to, in effect, eliminate one category of participants by providing only nominal support—thus complying with section 5(a) in a literal sense but indirectly thwarting its intent. The Act makes no distinction between households composed of students, strikers, the disabled or the elderly. The eligibility standards set forth in sections 5 and 6 of the Act are based solely on the income and financial resources of households. The "limited purchasing power of low-income households" and the "hunger and malnutrition among members of such households" is the Act's primary concern. 7 U.S.C. § 2011.

The most persuasive argument in favor of a pro rata reduction is the language of sections 8(a) and 3(o) of the Act. Section 8(a) sets forth the formula that is to be used in determining the value of allotments that may be issued to eligible households as follows—

> "The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 of the Act * * *."

The "thrifty food plan" is defined in section 3(o) as:

> "* * * the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition * * *."

It is clear that permissible variations, based on income considerations, have already been included in the formula.

Further, under section 3(o), the Act provides that the cost of the "thrifty food plan" diet "shall be the basis for *uniform allotments* for all households regardless of their actual composition." (Emphasis added.) In our view, this language dictates the basis for any determination of "value." Allowing the Department flexibility to reduce the value of allotments on any other basis would defeat the purposes of the sections discussed above. Thus, we agree with the Department of Agriculture that allowing reductions in allotments under subsection 18(b) on other than a pro rata basis would be contrary to the framework of the Act.

We trust that this answers your questions satisfactorily.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., October 26, 1977.

Subject: Food Stamp Program—Elimination of purchase requirement.
To: Carol Tucker Foreman, Assistant Secretary, Food and Consumer Services.

This responds to your informal inquiry as to whether a regulation could legally be issued pursuant to the Food Stamp Act of 1977 elimi-

ting the purchase requirement in advance of implementing any of
e specific provisions of that Act.

It is our opinion that such action would be legally objectionable.

The Food Stamp Act of 1964 required the imposition of a purchase
quirement, except in the case of households with income of less than
0 per month. Section 7(b). The Food Stamp Act of 1977 does not
ntain this requirement; instead, in section 8(a) it provides:

> "The value of the allotment which State agencies shall be authorized to issue to any households . . . shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 of this Act . ... The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination."

Section 5 of the Act contains specific provisions regarding determi-
ition of income not contained in the 1964 Act, including a standard
duction. The House Report (H.R. 95–464 at 241) notes that the "...
lationship of EPR to the adoption of the standard deduction is par-
cularly significant and important."

Section 1303(a) of the Food and Agriculture Act of 1977 provides
at:

> "The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977."

We are of the opinion that under this authority the Secretary may
nplement parts of the Food Stamp Act of 1977 in advance of others.
ccordingly, we are of the view that section 8(a) could be imple-
ented concurrently with section 5. However, section 8(a) could not
e implemented in advance of section 5 since by its terms section 8(a)
equires that the value of the allotment shall be based on household in-
me as determined in section 5.

Aside from section 8(a), we find no provision in the Food Stamp
ct of 1977 which would serve as authority for a regulation eliminating
e purchase requirement, and do not believe that such elimination
ould be bottomed on the lack of a purchase requirement in the new
ct. We are mindful that several Senators and Representatives indi-
ted on the Senate and House floors, at the time of consideration of
e conference recommendations, that elimination of the purchase re-
uirement could be implemented in advance, but we do not consider
at such remarks can be accepted as overriding the statutory language.
See S. 14570–85, Cong. Rec., Sept. 9, 1977; H. 9544–9552, Cong. Rec.,
ept. 16, 1977).

SARAH WEDDINGTON,
General Counsel.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., October 11, 1978.

Subject: Implementation schedule for final FS regulations.
To: Carol Tucker Foreman, Assistant Secretary.

The attached Food Stamp Program regulations implementating the Food Stamp Act of 1977, delivered to this office on October 10, 1978 are approved for legal sufficiency.

However, the revised implementation schedule raises some legal issues. Our October 26, 1977, memorandum, to you noted that advance elimination of the purchase requirement (EPR) under authority of section 8(a) of the Food Stamp Act of 1977, would require the concurrent implementation of the section 5 household income definition.

While not free from legal doubt, we believe there is a reasonable legal basis for the position that the revised schedule is consistent with the concurrent implementation requirements of the Act. The revised schedule treats EPR as the first step in the transition phase which implements within one to three months, both EPR and the section 5 income definition, and, we believe, can be considered the beginning of the implementation process under the requirements of the 1977 Act.

HAROLD M. CARTER,
Acting General Counsel.

Attachment.

In the United States Court of Appeals
For the Seventh Circuit

(No. 78–1898)

INDIANA WELFARE RIGHTS ORGANIZATION, INC., AN INDIANA CORPORATION; BONITA JOHNSON, CATHERINE PHIPPS, ON BEHALF OF THEMSELVES AND ALL OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS APPELLANTS,

v.

ROBERT BERGLAND, INDIVIDUALLY AND IN HIS CAPACITY AS UNITE STATES SECRETARY OF AGRICULTURE, WAYNE A. STANTON, INDIVIDUALLY AND IN HIS CAPACITY AS ADMINISTRATOR OF THE INDIANA DEPARTMENT OF PUBLIC WELFARE, ALLEN E. GREENE, INDIVIDUALLY AN IN HIS CAPACITY AS DIRECTOR OF THE FOOD STAMP DIVISION OF TH INDIANA DEPARTMENT OF PUBLIC WELFARE, DEFENDANTS-APPELLE

Appeal from the United States District Court for the Southern District of I diana, Indianapolis Division. No. IP 77–C–693—Cale J. Holder, *Judge.*

ARGUED NOVEMBER 8, 1978—DECIDED MARCH 30, 1979

Before FAIRCHILD, *Chief Judge*, and SWYGERT and TONE, *Circ Judges.*

FAIRCHILD, *Chief Judge.* On December 1, 1977, this action was fil by Bonita Johnson. Jeanette Chrisman and Catherine Phipps, i dividual food stamp recipients, and the Indiana Welfare Rights Organization, an Indiana Corporation, as a nationwide class action, against the Secretary of Agriculture, Robert Bergland, and Indiana Welfare Officials Wayne Stanton and Allen Greene. The named plaintiffs claimed inability to pay the purchase price requirements of the food stamp program. Plaintiffs sought preliminary and permanent injunctive relief prohibiting defendants from delaying implementation of Section 8 of the Food Stamp Act of 1977 which eliminates the purchase price for food stamp benefits; declaratory relief that defendants' failure to implement Section 8 immediately violated plaintiffs' rights; and damages in the form of cash refunds of the purchase price that was paid after October 1, 1977 and up to the time when the purchase price is no longer required.

Statutory authority for the Food Stamp Program was formerly found in the Food Stamp Act of 1964, with amendments. 7 U.S.C. §§ 2011-2026 (1976). Section 2016(b) (§ 7(b) of the 1964 Act) provided in part: "households shall be charged for the coupon allotment issued to them, and the amount of such charge shall represent a reasonable investment on the part of the household, but in no event more than 30 per centum of the household's income. . . ." Pursuant to this provision and regulations thereunder, eligible households were required to purchase food stamps at a reduced rate based on their size and cumulative income. The households used the stamps to buy food, and the government has redeemed the stamps at face value, thereby paying the difference between the cost of the food and the "reasonable investment" paid by the household under the so-called purchase requirement.

Elimination of the purchase requirement, often referred to as EPR, was one of the reforms directed by Congress in the Food Stamp Act of 1977, part of the Food and Agriculture Act, P.L. 95–113, 91 Stat. 969. EPR has been characterized as the "most significant change" in the bill. H.R. Rep. No. 95-464, 95th Cong., 1st Sess. at 239 (1977).

The 1977 Act took the form of an amendment of the 1964 Act, effective October 1, 1977. 7 U.S.C. § 2017 [Sec. 8 of the Act as amended] corresponds to 7 U.S.C. § 2016 before the amendment [Sec. 7 of the 1964 Act] and contains no purchase requirement, but does provide, in part, that the value of the allotment to eligible families shall be equal to the cost of the "thrifty food plan" reduced by an amount equal to 30 per centum of the household's income as determined in accordance with section 5 (7 U.S.C. § 2014). A sentence in 7 U.S.C. § 2017 (a) is the only direct reference in the Act to EPR: "The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination."

Although Section 1301 of P.L. 95 113 made the amendment of the Food Stamp Act of 1964 effective October 1, 1977, Section 1303(a) demonstrated recognition that the Food Stamp Program is largely delineated by regulations which would need revision to reflect the statutory changes. Section 1303(a) provided in part: "The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977 . . . ."

Thus the reference to October 1, 1977 as an effective date was qualified so as to maintain former provisions in force until the change be reflected in regulations.

The Secretary sponsored public hearings, and sought confirmation and advice in various ways. On May 2, 1978 it published proposed rules covering changes, including EPR, which the Secretary considered closely interrelated and needing concurrent implementation. 43 Fed. Reg. 18874. On October 17, 1978, after revision, the final rules were published, requiring the state agencies to eliminate the purchase requirement for all households on or before January 1, 1979. Section 272.1(g) (1) (i).

It does appear that the Secretary more expeditiously worked out a change in the rule for giving effect to utility bills in connection with the Food Stamp Program. A rule governing the matter was published November 30, 1977, 42 Fed. Reg. 60916, effective January 1, 1978, and an amendment was filed January 11, 1978.

Plaintiffs apparently agreed that the statutory amendment eliminating the purchase requirement was not self-executing, but claimed that the Secretary and other defendants had a duty to implement 7 U.S.C. § 2017 immediately after October 1, 1977. Plaintiffs contend that the Act required the Secretary to separate EPR from all other changes if necessary to accomplish EPR immediately.

The district court addressed the matter on cross motions for summary judgment, and granted judgment for defendants June 30, 1978. The gist of the court's conclusion was as follows:

> The Act is a comprehensive re-vamping of the food stamp program. Each section of the Act is substantially dependent upon the other sections of the Act. Section 1303(a) of the Act requires [defendant] Bergland to implement the Act as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. That section does not require any section of the Act to be implemented sooner than any other section of the Act. Portions of the legislative history of the Act have been cited by the parties to support their respective positions, but the legislative history does not, and cannot, vary the plain language of the Act, particularly Section 1303(a) thereof.

We agree.

Initially plaintiffs sought an injunction prohibiting the defendants from failing to implement EPR immediately, virtually *mandamus*. They also sought refunds of the purchase price paid by class members after October 1, 1977. By the date of argument of the appeal, November 8, 1978, the regulation had been issued and had provided for EPR by January 1, 1979. Accordingly, the request for mandatory relief is moot.

Plaintiffs do cite statements by individual Senators which support their view that immediate implementation of EPR, independently of other changes, was intended. One of several examples is a speech by Senator Leahy, a member of the subcommittee responsible for the bill. He said on September 9, 1977: "Because EPR is such an important gain, I hope it will be implemented as soon as possible after this bill's enactment. This reform is not dependent on other features of the bill and thus does not have to wait until more complicated provisions are in place. I urge the Secretary not to delay in implementing the EPR provision." 123 Cong. Rec. S. 14570 (daily ed. September 9, 1977).

On the other hand, nothing in the text of the Act nor the Committee Reports suggests a duty of immediate or separate implementation, and the Secretary cites passages from the Reports evidencing the concept that the changes directed by the Act are interrelated.

Representative Foley, who chaired both the House and Conference Committees and was the bill's floorleader in the House, commented concerning court actions brought to seek loopholes in the bill: "But, if the courts should confront such cases, we trust that they will read and construe this new food stamp law in light of our intent to trust its management to the Department of Agriculture operating in good faith and under the guidance of our legislative dictates." 123 Cong. Rec. H. 9535 (daily ed. September 16, 1977).

The Secretary argues persuasively that portions of the Act and the program contemplated support the close relationship between EPR and other changes.

Thus under the 1964 Act, a household participating in the Food Stamp Program received a "coupon allotment" equal to the cost to the household of a "nutritionally adequate diet," 7 U.S.C. § 2016(a) (1976). Households with income (after deductions, *see* 7 C.F.R. § 271.3(c) 1977)) greater than the "zero-purchase" level were charged an amount for the coupons that "represent[s] a reasonable investment on the part of the household, but in no event more than 30 per centum of the household's income." 7 U.S.C. § 2016(3) (1976); *see* 7 C.F.R., pt. 271 apps. A-F (1977). The food stamps were used by recipients "to purchase food at retail stores, and the government redeemed the stamps at face value, thereby paying the difference between the actual cost of the food and the amount paid by the household for the stamps." *United States Department of Agriculture* v. *Moreno*, 413 U.S. 528, 530 (1973).

Under the 1977 Act, no purchase requirement is charged for the coupons but the face value of the coupons is reduced "to the cost to households of the thrifty food plan,[1] as determined in accordance with Section 5 of the Act. . . ." Food Stamp Act of 1977, § 8(a), 7 U.S.C. § 2014.[2] Section 5 contains detailed requirements for financial eligibility to participate in the program and describes the level of available benefits. Thus, the implementation of EPR is textually limited to the implementation of Section 5. A House report noted: "[t]he committee bill will add approximately 1,749,000 new people with net incomes below the poverty level to the program. The net effect of this addition offset by the elimination of 1,344,000 non-needy is to add 405,000 individuals." H.R. Rep. No. 95-464, 2. The Secretary argues that had EPR been implemented before the other reforms as plaintiffs urged, the Food Stamp Program would have been significantly inflated by the addition of more needy persons without the elimination of the non-needy and the congressional objectives of a simplified, efficient, and cost-effective program would have been undermined.

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[1] 7 U.S.C. § 2012. Thrifty food plan

(o) "Thrifty food plan" means the diet required to feed a family of four person consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household-size adjustments taking into account economies of scale, . . . (4) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively.

[2] 7 U.S.C. § 2014. Eligible households

(a) Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet . . . .

(b) The Secretary shall establish uniform national standards of eligibility for participation by households in the food stamp program in accordance with the provisions of this section . . . .

(c) The income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d) [42 USCS § 2971d] . . . . *Provided further*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index for March 1978, utilizing the most current procedures which have been used by the Office of Management and Budget, and the income poverty guidelines for future periods shall be similarly adjusted.

Deference is due the interpretation given to a statute by the agency charged with its administration. "Particularly is this respect due when the administrative practice at stake involves a contemporaneous construction of a statute by the men charged with the responsibility of

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(d) Household incomes for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household, (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter, (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is a student, and who has not attained his eighteenth birthday, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, and (10) any income that any other law specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program.

(e) In computing household income, the Secretary shall allow a standard deduction of $60 a month for each household, ... Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed ....

(f) Household income shall be calculated by the State agency for the purpose of determining household eligibility. The State agency in calculating household income shall take into account the income reasonably anticipated to be received by the household in the certification period for which eligibility is being determined and the income which has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period. ...

(g) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed $1,750, or, in the case of a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000. The Secretary shall, ... (1) include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, and vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income) used for household transportation or used to obtain or continue employment or to transport disabled household members to the extent that the fair market value of any such vehicle exceeds $4,500, and (2) study and develop means of improving the effectiveness of these resource requirements in limiting participation to households in need of food assistance, ...

(h)(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by section 302(a) of the Disaster Relief Act of 1974 [42 USCS § 5142(a)], establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, ...

(2) The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials.

etting its machinery in motion; of making the parts work efficiently nd smoothly while they are yet untried and new." *Udall v. Tallman*, 80 U.S. 1, 16 (1965).

The Act did not expressly require immediate implementation of EPR, separate from implementation of other changes. We are satisfied that no such duty was implied.

The duty which was imposed by Section 1303(a) of the Act was to "implement . . . as expeditiously as possible consistent with the efficient nd effective administration of the . . . program."

Another section, 7 U.S.C. § 2013(c), required the Secretary to promulgate all regulations in accordance with the procedures set forth in Section 553 of Title 5 (Rule Making).[3]

Once one accepts the Secretary's right to deal with EPR along with the other matters covered in the October, 1978 rule, it would be most difficult to demonstrate that he failed in his duty of expeditious implementation, assuming the appropriateness of judicial review. Surely there has been no such demonstration.

Plaintiffs asked the district court to permit the action to be maintained on behalf of all applicants in the United States required to pay a purchase requirement. The court limited the class to persons in Indiana. Plaintiffs have argued on appeal that this limitation of the class was erroneous.

In view of the outcome, unfavorable to the class as limited, we perceive no reason for deciding whether a larger class of plaintiffs should have been certified.

The judgment appealed from is AFFIRMED.

A true Copy:

Teste:

_____ _____,

Clerk of the United States Court of
Appeals for the Seventh Circuit.

STATUS WITH RESPECT TO FISCAL YEAR 1979 APPROPRIATIONS

The existing appropriation for the food stamp program in fiscal year 1979 is $5.770 billion. Another $50 million is included in the appropriation for overall Federal Food Program Administration and some $9 million is transferred to the Office of the Inspector General. When enacted, these appropriations conformed precisely to the administration's estimate of program funding needs in fiscal year 1979.

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[3] 5 U.S.C. § 553.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. . . .

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. Afer consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. . . .

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

In addition, $338 million in unused fiscal year 1978 appropriations has become available for 1979 needs.

When the administration made its fiscal year 1980 budget submission to Congress, it requested a fiscal year 1979 food stamp supplemental appropriation of $245 million, primarily to cover increased costs due to food-price inflation. This supplemental request has since been revised upward to $1.039 billion, to cover unexpected food-price increases and costs associated with the large number of new recipients entering the program.

If added to the existing appropriation, the administration's supplemental request would bring the total 1979 food stamp appropriations to $6.809 billion, $30 million above the amount proposed as an appropriations ceiling by this committee. When the $338 million in available "carryover" funds is added to the potential newly appropriated amount of $6.809 billion, the total program funding level in 1979 could be as high as $7.147 billion, or $7.117 billion if the committee's proposed 1979 appropriations ceiling is adopted. On June 26, 1979, the Senate passed the Supplemental Appropriations Bill, 1979, H.R. 4289, that provides a supplemental appropriation of $988,786,000 for the food stamp program. If approved by the committee of conference, this amount will result in appropriations that will be approximately $10 million less than the authorization level contained in S. 1309.

STATUS WITH RESPECT TO THE FISCAL YEAR 1979 BUDGET RESOLUTION (HOUSE CONCURRENT RESOLUTION 107)

On may 25, 1979, Congress amended the second concurrent Budget Resolution for fiscal year 1979 at the same time as it adopted the first concurrent resolution for fiscal year 1980. The resolution made a number of re-estimates for the Income Security function (function 600) in fiscal year 1979 and, in doing so, increased the estimates for the food stamp program by $652 million in budget authority and $710 million in outlays.

As a result, the final Budget Resolution provisions for fiscal year 1979 assume an estimated Budget Authority level for food stamps of $6.574 billion. Over $300 million in fiscal year 1978 "carryover" funds available for use in 1979 make the most current outlay estimate $6.896 billion.

The amounts included in the resolution for the food stamp program represent an estimate of program costs and not a ceiling on funding.

[From the Federal Register, vol. 44, No. 114, June 12, 1979—Rules and Regulations]

DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE

(7 CFR Parts 271, 272, and 273)

[Amdt. 146]

FOOD STAMP PROGRAM; PROCEDURES FOR REDUCTION OR CANCELLATION OF ALLOTMENTS TO ELIGIBLE HOUSEHOLDS

Agency: Food and Nutrition Service, USDA.

Action: Emergency rulemaking.

Summary: This emergency rulemaking sets forth the procedures that are to be followed if the Secretary of Agriculture determines that it is necessary to reduce or cancel the food stamp allotments distributed to households eligible to receive food stamps. Such a reduction or cancellation would be necessary if it is determined that the value of full monthly food stamp allotments distributed to all eligible households will exceed the amount of funds appropriated by Congress. This rulemaking implements the provisions of Section 18(b) of the Food Stamp Act of 1977, Title XIII, P.L. 95–113, 91 Stat. 979. September 29, 1977, 7 U.S.C. 2525. Since there is a possibility that a reduction or cancellation of allotments may be necessary during this fiscal year, the Acting Administrator of the Food and Nutrition Service, Robert Greenstein, has determined that an emergency rulemaking is necessary to establish these procedures as expeditiously as possible. Comments are invited, however, for use in developing a final rule.

Dates: Effective date: Effective upon publiaction. Comments must be received on or before August 13, 1979, to be assured of consideration.

Addresses: Comments should be submitted to: Alberta Frost, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. A final rulemaking will be issued after considering the comments. All written comments, suggestions or objections will be open to public inspection at the office of the Food and Nutrition Service, USDA during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street, S.W., Washington, D.C., Room 650. An Impact Analysis has been prepared, and is available from Acting Deputy Administrator Frost. A copy will also be open for public inspection at the office shown above.

For further information contact Sue McAndrew, Chief, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, (202) 447–6535.

Supplementary information: Section 18(b) of the Food Stamp Act of 1977 directs the Secretary to reduce monthly food stamp allotments if program requirements are in excess of the amount appropriated. In part, Section 18(b) states: "If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection." This rulemaking establishes the procedures that will be used in carrying out this provision of the Act. Since there is a possibility that the procedures will have to be used during this fiscal year, they are being issued as an emergency rulemaking, effective immediately. The rules are subject to public comment, however, and will be reissued in final form following the end of the comment period.

The Department's General Counsel and the Comptroller General of the United States have ruled that only a *pro rata* benefit reduction is legally permissible under Section 18(b) of the Act. The procedures in this rulemaking provide for such a *pro rata* benefit reduction.

Nature of reduction action.—If the Secretary determines that a reduction in food stamp allotments is necessary, a decision must be made as to how this reduction is to be affected. Based on the best information available on levels of participation and amounts of benefits, FNS will monitor the expenditure of funds to determine if a budgetary shortfall is likely to occur. If it appears that the available appropriated funds will not be sufficient to provide all households with full monthly allotments for the remainder of the fiscal year, the Secretary will determine the best manner in which to make up the shortfall. The choices available are to reduce allotments for one or more months, cancel allotments for one or more months or use a combination of reduced and cancelled allotments. The manner in which the Secretary decides to make up the shortfall will depend on the extent of the shortfall and the number of months available to make up the shortfall.

As noted earlier, any reduction or cancellation of allotments deemed necessary by the Secretary shall have an equal effect on all households. Reductions will be accomplished by providing households with a certain percentage of their normal full monthly allotments. Thus, if the Secretary determines that a 25 percent reduction in allotments will produce an adequate savings of money so that appropriations will not be exceeded, *all* households will have their allotments reduced by 25 percent. If it is determined that a cancellation of allotments is necessary, *all* allotments to all households for a given month will be cancelled.

Enactment of allotment reductions.—Since State agencies are responsible for issuing food stamps to eligible households, they will be responsible for implementing reductions and cancellations of allotments. This rulemaking establishes the procedures that States are to follow in carrying out such directives.

All project areas with computerized issuance systems will be required to add an element to their computer programs to allow for percentage reductions in allotments to be made if the Secretary so directs. This element would be a new final computation to reduce benefits by a specified percentage. The computation would be structured in one of two ways. States could choose to add a two step computation which would first multiply the full allotment by the percentage reduction factor and then subtract the result from the full allotment to arrive at the reduced allotment. Thus, if a 25 percent reduction was ordered, the full allotment would be multiplied by 25 percent and the result subtracted from the full allotment. Alternatively, State agencies could subtract the percentage reduction factor from 1.00 and multiply the full allotment by this result. For example, if a 25 percent reduction was ordered, States would multiply the full allotment by 0.75 to arrive at the reduced allotment. State agencies may use either of these two computations to reduce allotments. To ensure that this adaptation is made now, however, the implementation segment of these rules suggests that State agencies include this field in their computers when they update their data bases to reflect the July 1979 cost-of-food increases.

Any project area with a computerized issuance system that cannot be changed in the manner described above must be changed in some way to allow for the issuance of reduced allotments. The method adopted in these areas must ensure that reduced allotments can be issued within 15 days of a notice from FNS to reduce allotments. Furthermore, the change in the computer system must be accomplished in time to reduce allotments for August 1979 if it is necessary to do so.

In project areas with manual issuance systems, preparation for a duction in allotments in these areas includes the printing and distri- ution of new allotment tables or conversion tables to be used with urrent allotment tables. The Department will prepare and distribute em for State agencies to use. It is the responsibility of the State gencies, however, to ensure that sufficient copies are obtained and dis- ributed in time to effect reductions in allotments.

A reduction in allotments in an area with an HIR card system can be ccomplished in one of two ways. State agency personnel can either djust all of the Household Issuance Records prior to the affected onth's issuance or they can adjust the records as each household ap- ears at the issuance office to pick up its monthly allotment. The choice f which method to use is up to the State agency.

It should be emphasized that if a reduction or cancellation of allot- ents is directed, the action is to affect all allotments for the month the ancellation or reduction is ordered. Thus, if August allotments are o be reduced by 50 percent, all allotments issued to eligible households or August are to be reduced by 50 percent. In States with fiscal months, his reduction shall be applied to all normal allotments for August, even f the allotment is not received until September. At the same time, allot- ments issued in the reduced month, but which actually represent the household's benefits for the previous month, shall not be reduced if no benefit reduction had been ordered for the previous month. Likewise, any retroactive or restored benefits for a period other than the reduced month should not be affected by the ordered reduction.

Along with putting a reduction or cancellation into effect, State agencies must notfiy households of the action. The rulemaking points out that the reduction or cancellation of allotments is to be considered a mass change and that the normal requirements for notifying households of mass changes are to be applied, with the one exception discussed below. Those requirements direct States to notify households through the news media, through posters in certification and issuance offices or through general explanatory notices mailed to participating households. Those requirements also give States the option of mailing individual notices of adverse action to households affected by the change. In view of the requirements of the law and the time element involved, this rulemaking prohibits States from using notices of adverse action. Households may not, under any circumstances, be entitled to continued benefits at their former level.

Included in this rulemaking is a provision that denies households an entitlement to the restoration of benefits lost as a result of a reduction or cancellation of allotments. Thus, if a reduction or cancellation of allotments results in a surplus of appropriated funds, the Department would not have to return these funds to the households affected by the reduction or cancellation. However, while households do not have an entitlement to the restoration of benefits and the Department would not be required to issue retroactive benefits the Department pledges to restore benefits to households affected by an allotment reduction or cancellation if the Secretary determines such a restoration is practicable.

In the event of a reduction or cancellation in benefits, the Department will endeavor to provide State agencies with as much lead-time as possible. Once the percentage reduction factor field is entered into computers, State agencies with computerized issuance will not require a great deal of lead-time to change the reduction factor on the computer. State agencies with manual systems will require more lead-time. The Department will make every effort to provide a minimum of one month lead-time for reductions in benefits and one-half month lead-time for cancellation. The Department anticipates that in the event a reduction or cancellation does occur, a longer lead-time than these minimums would be provided.

Effects of reductions and cancellations on ongoing Program operations.—The reduction or cancellation of allotments is not intended to affect any aspect of Program operations other than the amount of benefits distributed to households. As noted in this rulemaking, applications are to be accepted and processed the same way during a month in which allotments are reduced or cancelled as they are in a normal month. Eligibility determinations are to be made according to the criteria in Part 273 and certification periods are to be assigned on a normal basis. Recertifications are also to be processed and not delayed.

As noted above, households affected by reductions and cancellations would not have an entitlement to a continuation of benefits if they object to the reduction or cancellation action. Households may request fair hearings and State agencies are required to honor and process the requests. However, fair hearings will not result in a reversal of the reduction or cancellation of a household's allotment. They will result in a correction to an incorrectly calculated allotment though, and to restored benefits if the reduction was too large because it was incorrectly computed.

PENALTIES

This rulemaking explains the penalties that may be invoked if State agencies fail to comply with a directive issued by FNS to reduce or cancel allotments. The penalties were developed with the realization that, in order to assure that the mandate of Congress is met, swift action would be necessary to induce to noncomplying State agencies to take immediate corrective action. Failing that, the penalties include a provision for the recovery of funds from State agencies that do not comply.

The first two penalty provisions describe what may occur if the Department discovers that a State agency does not intend to comply with an order to reduce or cancel allotments. FNS may issue a warning to such a State agency that will advise the State agency that if the ordered reduction or cancellation of allotments does not occur, FNS will cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month. The warning period will b short and action to cancel the funding will come quickly followin confirmation of the State's noncompliance. At the same time that thi activity is taking place, FNS may, through the Attorney General seek a court injunction against the State in question in an effort t compel the State to comply with the ordered allotment reduction o cancellation.

The last penalty provision involves the recovery of funds that ar lost due to a State's failure to comply with an order to reduce or canc allotments. As the rulemaking indicates, State agencies will be hel liable for 100 percent of any overissuances that occur due to a State failure to implement a reduction or cancellation order. It is obvio that if such an order is issued and a State ignores it, the effect of th order will be compromised, and both the food Stamp Act and the Anti-Deficiency Act, 31 U.S.C. 665, as amended, could be in danger of violation. Since the reason for the order is to stay within the limits set by the amount of funds appropriated by Congress and since the State agency's action will serve to force spending outside these limits, the Department determined that the noncomplying State agency should be liable for making up the overissuances it caused.

If a State agency fails to comply with an order to reduce or cancel benefits, FNS will bill the State agency for any resultant overissuances. The billing will prescribe a period of time in which FNS expects to receive payment of the bills. If payment is not made within that time period, steps will be taken to recover the billed amount through offsets to the Federal share of the State's administrative costs.

The penalty provisions in the rulemaking are strict. However, since orders to reduce or cancel allotments will only be issued if they are absolutely necessary, full compliance by all States is imperative.

AMENDMENTS

In order to ensure that there are no misunderstandings, Section 273.10(e) is being amended with the issuance of this rulemaking. This section explains how net income and benefit levels are to be calculated. The amendment in this rulemaking clarifies that the procedures for calculating benefit levels in paragraph (2) of that section apply only when a reduction or cancellation of allotments is not in effect. Further, the amendment suspends the requirement that all one and two person households be given a monthly $10 minimum allotment during months when allotments have been reduced or cancelled.

IMPLEMENTATION

Along with the rules establishing a procedure for reducing or cancelling allotments are requirements for the implementation of the procedure. The Department believes that there is a possibility that a reduction or cancellation of allotments may be necessary within the next few months. Therefore, expeditious implementation of the procedures is needed. To ensure that the procedures are put in place as swiftly as possible with as little disruption as possible in State agency operations, the adaptations to computer programs to add the new benefit computation can be made at the same time the issuance program is updated to reflect the July 1979 cost-of-food increases. In addition, all State agencies are required to establish internal procedures they need to have in place so that they will be able to reduce allotments promptly if this proves necessary.

Parts 271, 272 and 273 are amended to include the following provisions:

PART 271—GENERAL INFORMATION AND DEFINITIONS

New § 271.7 is added to read as follows:

§ 271.7 *Allotment reduction procedures.*

(a) *General purpose.*—This section sets forth the procedures to be followed if the monthly food stamp allotments determined in accordance with the provisions of § 273.10 are to be reduced or cancelled. A reduction in allotment levels would be necessary if it is determined by the Secretary that the amount of food stamp benefits that are to be distributed to households during a fiscal year, or remaining months of a fiscal year, will exceed the amount of funds appropriated. The best available data pertaining to the number of people participating in the program and the amount of benefits being issued shall be used in making this determination.

(b) *Nature of reduction action.*—If the Secretary determines that the funds appropriated will not allow full monthly food stamp allotments for the remainder of a fiscal year, a decision shall be made as to the type of action needed to ensure that the appropriated funding level is not exceeded. Such action may be either a reduction in the allotment level for one or more months, a cancellation of allotments for one or more months or a combination of these two actions. All households shall be affected equally by a decision to either reduce or cancel food stamp allotments. If a reduction in allotments is deemed necessary, all households shall have their allotments reduced at the same rate. For example, if it is determined that a 25 percent reduction is necessary for two months, *all* allotments shall be reduced by 25 percent for two months. If cancellation is necessary, *all* eligible households shall have their allotments cancelled.

(c) *Implementation allotments reductions.* (1) *Reductions.*—(i) If a decision is made to reduce monthly food stamp allotments, FNS shall notify State agencies of the date the reduction is to take effect and by how much they are to be reduced.

(ii) Upon receiving notification that a percentage reduction is to be made in an upcoming month's allotments, State agencies shall act immediately to implement the reduction. Such action would differ from State to State depending on the nature of the issuance systems in use. Where there are computerized issuance systems, the program used for issuing the affected month's ATP cards shall be altered to reflect the percentage reduction ordered in the FNS notice. In States where manual issuance is used, either through an HIR card system or through manually prepared ATP cards, new allotment tables or conversion tables reflecting the reduced allotments shall be prepared and distributed before the affected month's issuance activity begins. In an HIR card system State agencies have the option of enacting the reduction in benefits either by changing all HIR cards before issuance activity for the affected month begins or by adjusting allotments at the point of issuance as each household appears at the issuance office. FNS will assist State agencies in the preparation of issuance tables needed to implement a reduction in allotments.

(2) *Cancellations.*—If a decision is made to cancel the distribution of food stamp benefits in a given month, FNS shall notify State agencies of the date the cancellation is to take effect. Upon receiving notification that an upcoming month's issuance is to be cancelled, State agencies shall take immediate action to effect the cancellation. This action would involve making necessary computer adjustments, and notifying issuance agents and personnel.

(3) *Affected allotments.*—Whenever a reduction or cancellation of allotments is ordered for a particular month, all allotments issued for the designated month are to be reduced or cancelled. However, allotments or portions of allotments representing restored or retroactive benefits for a prior, unaffected month would not be reduced or cancelled, even though they are issued during an affected month.

(4) *Notification of eligible households.*—Reductions and cancellations of allotments shall be considered to be Federal adjustments to allotments. As such, State agencies shall notify households of reductions and cancellations of allotments in accord with the notice provisions of § 273.12(e)(1), except that State agencies shall not provide notices of adverse action to households affected by reductions or cancellations of allotments.

(5) *Restoration of benefits.*—Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a future date. However, if there is any surplus of funds as a result of the reduction or cancellation, and the Secretary determines that such a restoration is practicable, FNS will direct State agencies to provide affected households with retroactive benefits.

(6) *Records of reductions and cancellations.*—State agencies must be able to produce a record of the amount of benefits each household receives during a month in which a percentage reduction is in effect along with a record of the amount of benefits each household would have received had full monthly allotments been distributed. Similarly, in the event that allotments are cancelled, State agencies must be able to produce a record of the amount of benefits each household would have received had full monthly allotments been distributed. These records will be used if FNS directs the provision of retroactive benefits.

(d) *Effects of reductions and cancellations on the certification of eligible households.*—(1) Determinations of the eligibility of applicant households shall not be affected by a reduction or cancellation of allotments. State agencies shall accept and process applications during a month(s) in which a reduction or cancellation is in effect in accordance with the requirements of Part 273. Determinations of eligibility shall also be made according to the provisions of Part 273. If an applicant is found to be eligible for benefits, the amount of benefits shall first be figured in accordance with the provisions of § 273.10 and then either converted to reflect the percentage reduction in effect or not provided to reflect the cancellation in effect.

(2) The reduction or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which allotments were reduced or cancelled shall be recertified according to the provisions of § 273.14. Households found eligible to participate during a month in which allotments have been reduced or cancelled shall have certification periods assigned in accordance with the provisions of § 273.10.

(3) Any household that has its allotment reduced or cancelled as a result of the implementation of the requirements of this subpart may request a fair hearing if it disagrees with the action. However, since the reduction or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, the household does not have a right to a continuation of benefits. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the State agency was directed to reduce benefits.

(e) *Penalties.*—Notwithstanding any other provision of this subchapter, FNS may take one or more of the following actions against a State agency that fails to comply with a directive to reduce or cancel allotments in a particular month.

(1) If FNS ascertains that a State agency does not plan to comply with a directive to reduce or cancel allotments for a particular month, a warning will be issued advising the State agency that if there is not compliance, FNS may cancel 100 percent of the Federal share of the State's administrative costs for the affected month.

(2) If FNS ascertains after warning a State agency as provided in (1) above, that the State agency does not plan to comply with a directive to reduce or cancel allotments, a court injunction will be sought to compel compliance.

(3) If a State agency fails to reduce or cancel allotments as directed by FNS. FNS will bill the State agency for all overissuances that result. If a State agency fails to remit the billed amount to FNS within a prescribed period of time the funds will be recovered through offsets against the Federal share of the State agency's administrative costs, or any other means available under law.

* * * * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Paragraph 272.1(g)(3) is added and reads as follows:

§ 272.1 General terms and conditions.

* * * * * * *

(g) Implementation.

* * * * * * *

(3) *Amendment.*—The procedures contained in amendment shall be implemented by State agencies as quickly as possible. All State agencies shall complete implementation in time to be able to issue reduced food stamp allotments in August 1979 if such action is determined to be necessary. State agencies with computerized issuance systems shall adjust these systems so that they are capable of issuing reduced coupon allotments. These adjustments may be made at the same time State agencies reprogram their computers to reflect the July 1979 cost-of-food increases.

* * * * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

In Section 273.10, subparagraph (e)(2)(ii) is amended and the words "Except as provided in subparagraph (iii) below," are added at the beginning. In addition, subparagraph (e)(2)(iii) is added to Section 273.10 and reads as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * * * *

(e) Calculating net income and benefit levels.

* * * * * * *

(2) Eligibility and benefits.

* * * * * * *

(iii) During a month when a reduction or cancellation of allotments has been ordered pursuant to the provisions of § 271.7, eligible households shall first have their benefits calculated as follows:

(A) If the action in effect is a reduction action, eligible households shall have their allotment levels calculated according to the procedures of subparagraph (ii) above, and then reduced by the percentage reduction in effect, and rounded to the nearest whole dollar.

(B) If the action in effect is a cancellation action, eligible households shall have their allotment levels calculated according to the procedures of subparagraph (ii) above. However, the allotments shall not be issued for the month the cancellation is in effect.

(C) The $10 minimum allotment level for one- and two-person households shall be applied in calculating allotment levels *before* a percentage reduction or cancellation is applied to the month's issuance. The actual allotments issued to one- and two-person households in a month in which allotments are reduced or cancelled may be less than $10.

* * * * * * *

Authority: 91 Stat. 958 (7 U.S.C. 2011–2027).

NOTE.—This interim final rule has been designated as significant and is being published in accordance with the emergency procedures of Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Assistant Secretary of Agriculture Carol Tucker Foreman that the emergency nature of his interim final rule warrants publication without opportunity for prior public comment. This interim final rule implements regulations in Parts 271, 272 and 273. A Draft Impact Analysis regarding his regulation is available from Alberta Frost, Acting Deputy Administrative for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 500 12th Street, Washintgon, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: June 6, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-18043 Filed 6-7-79; 8:45 a.m.]

INCOME CALCULATIONS AND BENEFITS FOR SELECTED HOUSEHOLDS UNDER THE 1977 ACT AND S. 1309 (AS OF JULY 1, 1979)

1. One person elderly household

A. A one person elderly household with gross monthly income of $250, none of which is earned, and monthly shelter costs of $200:

	1977 act	S. 1309
Monthly gross income	$250.00	$250.00
Standard deduction	−70.00	−70.00
Total	180.00	180.00
Maximum excess shelter expense deduction	−90.00	
Excess shelter expense deduction		−110.00
Program income	90.00	70.00
Time benefit reduction rate	.30	.30
Total	27.00	21.00
Maximum 1-person household allotment	61.00	61.00
30 percent of household program income	−27.00	−21.00
Monthly allotment	34.00	40.00

B. A one-person elderly household with gross monthly income of $250, none of which is earned, monthly shelter costs of $100, and monthly medical costs of $100:

	1977 act	S. 1309
Monthly gross income	$250.00	$250.00
Standard deduction	−70.00	−70.00
Total	180.00	180.00
No medical expense allowance	−0	
Excess medical expense deduction		−65.00
Total	180.00	115.00
Excess shelter expense deduction	−10.00	−43.00
Program income	170.00	72.00
Times benefit reduction rate	.30	.30
Total	51.00	21.60
Maximum 1-person household allotment	61.00	61.00
30 percent of household program income	−50.00	−21.00
Monthly allotment	10.00	40.00

2. *Two-person elderly household*

A. A two-person elderly household with gross monthly income of $300, none of which is earned, and monthly shelter costs of $225:

	1977 act	S. 1309
Monthly gross income	$300.00	$300.00
Standard deduction	−70.00	−70.00
Total	230.00	230.00
Maximum excess shelter expense deduction	−90.00	
Excess shelter expense deduction		110.00
Program income	140.00	120.00
Times benefit reduction rate	.30	.30
Total	42.00	36.00
Maximum 2-person household allotment	112.00	112.00
30 percent of program income	−42.00	−36.00
Monthly allotment	70.00	76.00

B. A two-person elderly household with gross monthly income of $300, none of which is earned, monthly shelter costs of $150, and monthly medical costs of $100:

	1977 act	S. 1309
Monthly gross income	$300.00	$300.00
Standard deduction	−70.00	−70.00
Total	230.00	230.00
No medical expense allowance	−0	
Excess medical expense deduction		−65.00
Total	230.00	165.00
Excess shelter expense deduction	−35.00	−68.00
Program income	195.00	97.00
Times benefit reduction rate	.30	.30
Total	58.50	29.10
Maximum 2-person household allotment	112.00	112.00
30 percent of program income	−58.00	−29.00
Monthly allotment	54.00	83.00

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Calendar No. 248

96TH CONGRESS } SENATE { REPORT
1st Session } { No. 96-237

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

JULY 9 (*Legislative day June 21*), 1979.—Ordered to be printed

Mr. EAGLETON, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1037]

The Committee on Governmental Affairs, to which was referred the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia, and to make certain changes in such benefits, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE

The purposes of the bill S. 1037 are (1) to establish, with Federal financial assistance, separate retirement funds for police officers and firefighters, teachers, and judges of the District of Columbia in order to liquidate the Federal share of the unfunded liability accrued prior to Home Rule on January 2, 1975; (2) to establish a Retirement Board to manage the funds; (3) to provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans; (4) to require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93-406, 88 Stat. 829); and (5) to provide disability retirement benefits which compare with other cities and provide the annuitant a sufficient retirement allowance while keeping pension costs at a level the District can afford.

The bill does not affect active or retired members of the U.S. Park Police, Executive Protection Service, or Secret Service.

BACKGROUND OF PENSION SYSTEMS IN THE DISTRICT OF COLUMBIA

The policemen and firemen's relief fund was established by Congress in 1916 to pay for medical and hospital expenses of police and firefighters for service-connected injury or disease and retirement for permanent disability. The fund was financed from disciplinary fines on members, gifts or rewards to the Department, employee contributions of 1½ percent of salary, proceeds from sales of unclaimed property, and donations. Any deficiencies in the fund were to be made up by the District government.

In 1924, Congress approved an amendment to the 1916 act to increase employee contributions to 2½ percent and establish a formula for sharing expenses of 60 percent from District of Columbia revenues and 40 percent from Federal revenues. This formula was in effect until 1957 when the law was amended to reimburse the District for benefit payments that exceeded the amount deducted from employee salaries. Periodic increases in the employee contribution level have brought it to the current level of 7 percent of salary.

The fund established in 1916 was never invested, and in 1935, all moneys credited to the fund were put into the general revenues of the District. That practice remains in effect today, leaving the retirement system on a pay-as-you-go basis.

By way of contrast, Congress enacted the teachers retirement legislation in 1920 (act of Jan. 15, 1920) on a funded basis. Employee contributions varied yearly to correspond to salary changes but were not to exceed 8 percent of $1,500. The fund was administered and invested by the U.S. Treasury which, in addition, made actuarial valuations every 3d year to show the financial condition of the fund.

In 1946, Congress placed the teachers retirement system on a basis similar to the civil service retirement system (Public Law 79-624). The Treasury Department estimated the District of Columbia contributions to the fund, on a actuarial level percentage basis, to cover the normal cost accrued each year and to liquidate the accrued liability over a 20-year period.

The city's appropriation was calculated on this basis until 1968 when the District's Presidentially-appointed Commissioners requested and were granted permission from the House Appropriations Committee to provide funds for only the normal cost accrued each year.

In 1970, Congress passed legislation (Public Law 91-263) to substitute this modified pay-as-you-go plan for the normal cost-plus interest formula specified in the 1946 Law (Public Law 79-624). The fund was frozen at the June 20, 1969, amount of $61.8 million and mandated to be maintained at that level or an amount equal to the employees' equity in the fund, whichever is greater. If the funds were not sufficient to meet all obligations, the District was to make up the difference.

Concern for the adequacy of pay-as-you-go financing for police and fire pensions was not voiced until Senate hearings in 1957. Senator Alan Bible, the chairman of the Senate Committee on the District of Columbia, when told by the Director of General Administration on the District of Columbia that the Commissioners did not consider it a serious problem that the police and firemen had no fund, requested that a more thorough study of funding be conducted.

An attempted comparative study of 18 cities indicated a prevalence of pay-as-you-go funding, and an absence of actuarial studies of cost in most cities. Even when funding did exist, the trust funds were not maintained at a level to be considered funded on an actuarial basis.

The 1972 report of the organization of the Government of the District of Columbia (Nelson Commission) (established by Public Law 91–405) was very critical of the methods of financing the police and fire, and teachers retirement systems. It criticized the Congress for allowing the teachers system to move from a funded to an unfunded one and pointed out the difficulty in recognizing and providing for costs of a pay-as-you-go retirement system that fails to consider and provide for future expenditures. (H. Doc. 92–317).

NEED FOR LEGISLATION

FUNDING

The committee finds that Congress established the District of Columbia police and firefighters, teachers, and judges pension plans and granted benefits, but failed to provide for adequate funding of these plans prior to granting home rule to the District in 1975. In addition, Congress mandated that the city hire an additional 2,000 police officers during the 1960's and early 1970's for a total authorization of 5,100—a force substantially larger than that for cities of comparable size.

As a result, for October 1, 1978, the unfunded liability of the police and firefighters retirement system is estimated at $1.566 billion, for teachers at $798 million, and for judges at $12.5 million—giving a total accrued unfunded liability of over $2.4 billion (assuming continuation of current benefit levels).

The unfunded liability measured more than $140 million over 1977 and is projected to increase by more than $180 million in 1979 to a total of $2.557 billion.

The police and firefighters pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers fund (congressionally mandated to be maintained at $61.5 million in face value) is so inadequate as to be considered unfunded. The same can be said of the judges $1.3 million fund.

Since the Federal Government created and had total responsibility for these pension systems until 1975, the committee believes it is the Federal responsibility to make annual payments to the retirement funds to amortize over a 25-year period that portion of the unfunded liability which results from costs for those who retired before the grant of home rule (Jan. 2, 1975). Based on the most recent actuarial valuations available, the committee determined the unfunded accrued liability for retirees as of the effective date of home rule, incorporating the cost savings anticipated under S. 1037. The amount authorized to be appropriated in this bill would be sufficient to amortize that share of the liability payable after enactment.

Because the District is truly a national city, the Federal Government has a responsibility to place the District on a viable financial basis so that it can assume the costs of future pension payments.

Pension costs for police and firefighters will be 57 percent of payroll in 1979, and under current law would exceed payroll by 1999. To pay more in retirement benefits than in active-duty salaries would be untenable for any city and impossible for the District because of its limited tax base. Nonetheless, as the Nation's Capital, the District must maintain large uniformed services and assure high professional standards through quality recruitment and stable and prudent compensation and retirement benefits. Essential to these objectives is the need for a reform of present systems to eliminate costly abuses and establish sound funding that will permit the District to sustain trained and skilled public services. The city must protect the 1.5 million persons who commute to the District daily, the numerous heads of state and visiting dignitaries, the millions of tourists who visit the Capital annually, and the delegations who come to Washington to petition their Government officials.

Also, the city's population has declined from 802,000 in 1950 to less than 700,000 today, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent a year.

To insure that adequate funds are available to pay the costs of those retiring after 1975, the District will pay net normal cost plus interest on its share of the unfunded liability; a transition period is mandated to prevent massive budget dislocations in the early years of the funding program. This will put the District on an actuarially sound financing schedule from the first year and assure adequate reserves by advance funding to meet future costs. A full discussion of funding issues will be found in appendix A.

The Federal payments authorized in S. 1037, the reforms in benefits and administration, and the funding program for the District leave the city on a sound financial basis—capable of meeting the personnel costs of the Nation's Capital well into the 21st century. Certain of the reforms made by this legislation apply to current employees and those hired in the future, while others apply only to new hires. Throughout the report, the term "current employees" refers to all those who are currently employed and those who become employees within 90 days after the enactment of this legislation. "Future employees" or "new hires" refers to those who assume their positions more than 90 days after the enactment of the legislation.

DISABILITY RETIREMENTS

The legislation establishes strict standards for disability retirements, eliminating costly abuses that have added substantially to the rising cost of the pension system. Of the total number of retirees in 1969, 99 percent of firefighters and 98 percent of police were retired on disability. Between 1971 and 1975, disability retirements in other cities ranged between 15 and 46 percent. Disability retirements in the District for 1977 were 52 percent for police and 63 percent for firefighters. In 1978, under increased pressure from the Senate and the House and because of more stringent administration by District officials, the average for the two departments was reduced to 44 percent.

Current law provides a line-of-duty disability retirement at 66⅔ to 70 percent of pay, regardless of the degree of injury or disease. The bill bases all disability retirements for future employees on a percentage of impairment, determined by medical experts, but guarantees a minimum annuity regardless of the extent of the injury. This reduces the incentive to apply for a 70 percent tax-free retirement for any injury or disease. Additionally, the bill imposes strict requirements for scrupulous and effective administration of the disability provisions governing the retirement of current employees as well. It provides for a precise trigger that automatically will reduce the Federal authorization for the year following any year in which costs exceed a specified point.

AGGRAVATION

Particularly vulnerable to abuse in current law is the aggravation clause, which allows a person who incurs an injury on duty or off duty, that is aggravated by continued duty, to retire on full disability pay.

An analysis of disability requirements shows that in 1969, 85 percent of firefighters and 69 percent of police retired on "aggravation" of previous injuries. In calendar year 1977, 20 percent of the disability retirements were for aggravation during duty of a preexisting injury which alone was not sufficient for disability retirement.

The bill eliminates the aggravation clause for all employees, current and future, except for aggravation of a previous on duty injury if the member has submitted a report and documentation to the Board of Police and Fire Surgeons within 7 days of the injury.

Current law allows an annuitant to earn up to 80 percent of the current salary of his last-held position in each of two consecutive years before putting his disability pension into jeopardy. Before 1978, no pensioner ever lost a penny of his annuity under this law, despite evidence of annuitants engaging in occupations requiring substantially similar physical conditioning. In 1978, the District government imposed vigorous new procedures, including establishment of a Casualty Investigations Branch in the Metropolitan Police Department. By April 1, 1979, 25 cases where persons may have recovered from disabilities were investigated and awaited action by the Retirement Board. Six persons were dismissed from their departments and two others resigned. The bill changes this to 80 percent in any 1 year for those currently retired on disability. It also provides for administrative monitoring of disability annuitants and a reduction in annuity based on outside earnings beyond a certain level for those who retire on disability in the future. This creates a substantial cost savings by reducing the incentive to seek disability retirement if optional retirement is available.

SERVICE RETIREMENTS

Current law allows police officers and firefighters to retire after serving 20 years. Comparative data for other cities show that the District's age/service requirement for retirement is among the most generous in the country. According to The Wyatt Co., this costs the city 14 percent of payroll more than a requirement of 25 years of service at age 55. The bill increases the requirement to 25 years and age 55 with corresponding changes in the benefit formula, for new hires. A retiree would receive 2.5 percent for each year served up to 25 years of service, and then 3 percent for each additional year as an incentive so the District can retain experienced officers. The current maximum annuity of 80 percent of base salary is retained.

At present a retired police officer's or firefighter's annuity is based on an average of his highest 12 consecutive months pay. Comparisons with other cities show that most jurisdictions use the average highest 36 consecutive months salary as a base for pensions. The bill provides for using this "high 3 years" as a base period for future employees.

At present, a police officer or firefighter must serve a full 20 years in order to be eligible for any service retirement benefits. Those with less than 20 years who change jobs lose all rights to a pension based on employer contributions for those working years with little hope of accumulating additional creditable years in the new job which would provide a sufficient retirement income. The bill allows a deferred annuity (vesting) based on years of service at age 55, or actuarially reduced at age 50, for those with at least 5 years of service. This reform applies to both current and future employees.

MAJOR PROVISIONS OF THE BILL

I. FUNDING

1. Establishes separate retirement funds for police officers and firefighters, teachers, and judges, but allows moneys to be commingled for investment purposes.

2. Establishes an 11-member Retirement Board to manage the funds, five appointed by the city and six elected by active and retired employees.

3. Requires that these funds be maintained on a actuarially sound basis to provide proper financing of benefits as they come due.

4. Gives the Retirement Board fiduciary responsibility over the funds.

5. Requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).

6. Provides for Federal payments into each fund to help finance liabilities for retirement benefits accrued prior to home rule, the period during which Congress enacted and administered the retirement programs.

7. Provides a trigger mechanism to reduce the Federal authorization for the year following any year in which costs exceed a specified point by 2 percent.

II. BENEFIT CHANGES FOR DISTRICT OF COLUMBIA METROPOLITAN POLICE OFFICERS AND FIRE FIGHTERS

1. For current retirees, current employees, and new hires:

(*a*) Requires annual medical and earnings statements of disability annuitants.

2. For current employees and new hires:

(*a*) Provides vesting in 5 years with the right to a deferred annuity at age 55.

(*b*) Increases survivor annuities *to conform* with civil service and social security practices.

(*c*) Provides cost-of-living adjustments on March 1 and September 1, based on the Consumer, Price Index, as in the civil service retirement ystem. (Currently, increases occur at the same times as and at the ame percentage as active members.)

(*d*) Conforms the timing of cost-of-living adjustments to those of Federal retirees.

(*e*) Disability retirements:

(i) Eliminates the aggravation clause for off-duty injuries and requires more strict accounting for aggravation claims for on-duty injuries.

(ii) A yearly medical statement by the Board of Surgeons or a doctor designated by them is mandatory. If a retiree fails to provide this information, his annuity will be suspended until he fulfills this requirement.

3. For new hires:

(*a*) Bases pensions on 3 years' average pay rather than last year's average pay.

(*b*) Changes eligibility for normal retirement to age 50 with 25 years' service, rather than 20 years' service with no age limit.

(*c*) Disability retirements:

(i) Board of Surgeons will determine the percentage of impairment.

(ii) Retirement Board will determine the percentage of disability, taking into account the percentage of impairment, position held prior to injury, nature of injury, age of member, and other factors which may affect the member's capacity to earn in the disabled condition.

(iii) An annuitant will have his annuity reduced for certain outside income exceeding limits specified in the legislation, limits based on the member's salary at the time of retirement and the overall level of salaries of active members.

(iv) No annuitant injured on duty will receive less than 40 percent of final pay, and no annuitant injured off-duty will receive less than 30 percent of final pay.

III. BENEFIT CHANGES FOR TEACHERS AND JUDGES

1. Repeals the 1-percent "kicker" on annuity adjustments and provides cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system.

2. Restores a retired teacher's full annuity (if teacher has elected to receive a reduced amount in order to increase survivor's annuity) if the beneficiary dies before the teacher. (Conforms to recent civil service retirement changes.)

Legislative History

On May 30, 1974, former Congressman Thomas M. Rees, then chairman of the House Subcommittee on Revenue and Financial Affairs, in response to the Nelson Commission report, recommendations, introduced a bill, H.R. 15139, to establish and finance a retirement fund for police officers and firefighters. The bill died in subcommittee because the Office of Management and Budget failed to acknowledge a Federal responsibility to assist the District in funding retirement benefits granted prior to home rule.

In the Senate, the pension systems came under scrutiny on March 16, 18, 23, and 25, 1976, when the Senate Committee on the District of Columbia held hearings as part of a long-term study on fiscal pressures on the District of Columbia. The financial distress of the police officers and firefighters, teachers and judges retirement systems was documented by the District Government, Treasury Department and private actuaries, current employees, independent experts, and representatives of various retired employee groups. City officials emphasized the necessity of a partnership between the Federal Government and the District Government in putting the systems on a sound financial basis. Employee groups were strongly in favor of pension funding and acknowledged the need for a reduction in some benefits as requisite for a sound pension system.

In 1976, Congressman Rees again introduced pension funding legislation (H.R. 12441, H.R. 13467, and H.R. 14960) that was expanded to include teachers and judges in addition to police officers and firefighters. This legislation differed from the 1974 bill in the method of funding, the composition of the Retirement Board, and the inclusion of the provision of the Employee Retirement Income Security Act of 1974 (ERISA) for managing the funds. After being reported by the full committee on August 9, 1976, the bill was not considered by the full House, again, because OMB voiced strong opposition.

In 1977 Congressman Romano L. Mazzoli introduced H.R. 2465, which was essentially the same as the 1976 Rees bill. The Subcommittee on Fiscal Affairs held hearings on March 21–23, 1977. On April 6, 1977, the subcommittee reported out H.R. 2465, as amended. Major amendments were to increase city representation on the Retirement Board, extend the investment restrictions to Maryland and Virginia bonds, real estate and agencies, and to retain the equalization clause for pension adjustments for current retirees. On April 26, the House District of Columbia Committee reported out H.R. 6536, the clean bill reintroduction of H.R. 2465, as amended. On September 26, 1977, H.R. 6536 passed the House of Representatives without amendment, 348 to 21 with 65 not voting

Realizing the need for precise actuarial information on the financial state of the District of Columbia systems, the Senate Subcommittee on Governmental Efficiency and the District of Columbia (which assumed jurisdiction of District of Columbia legislation after the reorganization of the Senate committee system in 1977) commissioned The Wyatt Co., actuaries, to make detailed evaluations of the present plans and develop cost analyses of various alternatives.

On June 30, 1977, Senator Charles McC. Mathias introduced S. 1813, which was identical to the House-passed bill. On November 15, 1977, Senator Thomas F. Eagleton introduced a bill, S. 2316, which, while similar to the House-passed legislation, provided for increased Federal payments and imposed more stringent standards for disability benefits. On February 23, 1978, the Subcommittee on Governmental Efficiency and the District of Columbia held a hearing on S. 2316 and S. 1813.

On May 9, 1978, S. 2316 was reported, with amendments, by the subcommittee, and, on May 15, 1978, it was reported by the full committee. On August 24, 1978, the Senate passed H.R. 6536 as an amendment in the nature of a substitute, by inserting the language of S. 2316. Senators Ribicoff, Eagleton, Sasser, Mathias and Percy served as conferees with Representatives Diggs, Dellums, Fauntroy, Mazzoli, McKinney and Whalen, and the conference report (S. Rept. 95–1293), was agreed to by the Senate on October 6, 1978, and by the House on October 13, 1978. The conference bill authorized an annual Federal payment of $65 million compared with the $80 million in the Senate bill for 25 years and provided for an automatic trigger device for reducing the payment if costs exceeded certain limits by more than 2 percent. The trigger was imposed to assure the management of the police and fire retirement program would take all possible measures to eliminate all possible abuse and strictly apply the more rigorous disability standards to all new hires. Although the administration expressed willingness to work with Congress on a sound pension program for the District of Columbia, it insisted that the Federal share should not exceed 60 percent of the $768 million originally authorized through the year 2003 by the House (H.R. 6536). This would have reduced the Federal share to $462 million over 25 years, a sum the committee, on the basis of actuarial studies, found unrealistic and deficient. At the end of the 25-year funding period, it would have left an unfunded liability larger than that in 1978. Nonetheless, the President, on November 4, 1978, vetoed the bill on grounds it overstated the Federal share and failed to make some of the disability provisions retroactive to apply to men and women currently employed. In the veto message, the President reiterated his pledge to work with the Congress, but on April 27, 1978, Jack Watson, the Assistant to the President for Intergovernmental Relations, a Presidential assistant wrote the following letter to Senator Eagleton, chairman of the Senate Subcommittee on Governmental Efficiency and the District of Columbia and to Representative Dellums, chairman of the House Committee on the District of Columbia. The letter follows:

THE WHITE HOUSE,
Washington, April 27, 1979.

Hon. THOMAS F. EAGLETON,
Chairman, Subcommittee on Governmental Efficiency and the District of Columbia, U.S. Senate, Washington, D.C.

Hon. RONALD V. DELLUMS,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

DEAR TOM AND RON: Last week several members of the White House staff met with members of your staffs to discuss a new pension bill for the District of Columbia. The discussion was frank and fruitful.

We have also received a letter from Mayor Marion Barry outlining his proposed elements for the new pension legislation and are reviewing it carefully. We have already circulated the Mayor's letter to the appropriate agencies and departments for comment and expect to have those responses about May 1.

Unfortunately, in light of these circumstances, we cannot meet your target date of May 15 for passing legislation requiring authorization in the fiscal year 1980 budget. Although we agree with you that it would be desirable to get the legislation enacted in this session of Congress, (we want to work with you to do it), we believe that we must look to fiscal year 1981 for appropriation authorization.

We think it is essential to work closely with you and the District in developing the necessary legislation and feel that there is simply not sufficient time to evaluate the District's proposal and draft legislation by May 15.

We look forward to working with you to get the necessary legislation enacted during this session of Congress.

Sincerely,

JACK H. WATSON, JR.

On May 10, 1979, the subcommittee held a hearing on S. 1037. Witnesses included Mayor Marion Barry, District Council Chairman Arrington Dixon, and various police, fire and teacher employee and retiree organizations.

SECTION-BY-SECTION ANALYSIS OF S. 2316

S. 1037 reforms the law governing the pension plans for police officers, firefighters, teachers, and judges in the District of Columbia. It will as noted in the "Purposes" section of the bill, embrace many of the safeguards and restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93-406, 88 Stat. 829).

It is the intention of the committee that the provisions of the bill do not affect active or retired members of the U.S. Park Police, Executive Protective Service, or Secret Service.

Section 1. Short Title.—The short title of S. 2316 is the "District of Columbia Retirement Reform Act."

TITLE I—FINANCING OF RETIREMENT BENEFITS

Part A—Findings and Purpose; Definitions

Section 101. Findings and Purpose.—The three pension plans in the District of Columbia are not financed on an actuarially sound basis and appropriations by both the District of Columbia and the Federal Government have failed to take into account the long-term financial requirements of the plans. By the year 2003, the cost to the District under current law to support the retirement plan for police officers and firefighters alone will exceed the salaries of active employees covered by the plan. The bill has five purposes:

(1) To establish separate funds for the police officers' and firefighters', teachers', and judges' retirement systems;

(2) To establish a Retirement Board to manage the funds;

(3) To provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans;

(4) To require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA);

(5) To provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of self-government for the District.

Section 102. Definitions.—The bill defines 19 terms that are used in the bill.

PART B.—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Section 121. District of Columbia Retirement Board.—The District of Coumbia Retirement Board (Board) is established as an independent agency (as defined in the District of Columbia Code, title 1, section 1502(5)) in the District government. The Board has exclusive financial management authority over the funds.

The Board is composed of 11 members. Six of them, elected by the groups they represent, are: a member of the Metropolitan Police force, a retired member of the Metropolitan Police force, a member of the Fire Department, a retired member of the Fire Department, a teacher in public day schools, and a retired teacher of public day schools. The Council of the District of Columbia appoints two members and the Mayor appoints three members. The chairman is elected from among the Board members. The Director of the District's Office of Budget and Managment Systems is a non-voting ex-offico member of the Board and may not be elected chairman.

The Board, by a two-thirds vote of its members, may remove any member who breaches his or her fiduciary responsibilities or violates certain other laws. Members of the Board have a fiduciary responsibility to carry out this oversight of its membership.

The compensation of a member of the Board is the hourly equivalent of a GS–15. The Board must meet at least once each calendar quarter and as often as requested by the chairman or any three members. Six members comprise a quorum, and all decisions are resolved by a simple majority of those members present and voting.

Board members are precluded from having any interest in transactions involving the assets of funds under their authority. They are also subject to the general law governing fiduciaries as construed in the District of Columbia.

The Board is given power to issue rules and regulations to carry out its various responsibilities. The Board may hire an investment counsel and must enter into a written fiduciary agreement with such counsel. The individual selected as an investment counsel must qualify under the Investment Advisers Act of 1940. The Board may also appoint whatever additional staff it requires under the general competitive service rules of 5 United States Code, but no staff person may receive a compensation higher than the GS–15 level. Expenses of the Board are paid from appropriations of the District of Columbia, and a reasonable amount for such expenses must be included in the Mayor's budget.

Section 122. District of Columbia Police Officers and Firefighter's Retirement Fund.—The police officers and firefighter's retirement fund is established to receive the contributions made pursuant to the Policemen and Firemen's Retirement and Disability Act (District of Columbia Code, title 4, section 521, et seq.) to receive the appropriations from the Federal and District Governments, to hold the gains on investment of its assets and to pay all benefits due. The custodian of the police officers' and firefighters' retirement fund will receive the contributions deducted from the salaries of the participants. Necessary amendments, effective 90 days after enactment, are made to the District of Columbia Code for the transfer of contributions held by the District of Columbia Government into the police officers' and firefighter's retirement fund and to receive future contributions.

Section 123. District of Columbia Teachers' Retirement Fund.—The teachers' retirement fund is established to receive the contributions made pursuant to "An act for the retirement of public schoolteachers in the District of Columbia" (District of Columbia Code, title 31, section 721, et seq.), to receive appropriations from the Federal and District governments, to hold gains on investment of its assets and to pay all benefits dues.

Necessary amendments are made to the code to provide for continued use of existing funds to pay benefits until funds are depleted and to receive future contributions to the teachers' fund. This revision is not intended to reduce or impair in any manner the security offered under existing law to beneficiaries of this retirement plan.

To avoid incurring a loss of principal, a provision is made for transferring assets from the existing fund to the new fund without need for liquidation of the assets.

The effective date of this section is 90 days after enactment.

Section 124. District of Columbia Judges' Retirement Fund.—The judges retirement' fund is established to receive contributions made pursuant to District of Columbia Code, title 11, section 1561, et seq., to receive appropriations from the Federal and District governments, to hold the gains on investment of its assets and to pay all benefits due. Necessary amendments are made to the District of Columbia Code to provide for continued use of existing funds to pay benefits until funds are depleted and to receive future contributions to the judges' fund.

To avoid incurring a loss of principal, a provision is made for transferring assets from the existing fund to the new fund without need for liquidation of the assets. The effective date of this section is 90 days after enactment.

Section 125. Management of Retirement Funds.—The position of custodian of the retirement funds is established. The custodian must keep the funds separate from other assets under his or her control but not necessarily separate from each other as the funds may be commingled for purposes of investment. The Board must provide a sufficient cash reserve to pay for current benefits authorized by the funds. The director of the Office of Budget and Financial Management of the District of Columbia is custodian of retirement funds from the date of enactment until the Board certifies in writing that they are prepared to accept the role of custodian (sec. 121). The Board must do so within 90 days of its formation.

Section 126. Payments from the Funds.—The Mayor must provide the Board a list of payments required from the funds. In making those payments it is intended that the Board act as fiduciary for the funds and carry out the Mayor's instructions only insofar as the instructions are consistent with the Board's fiduciary duty.

PART C—FINANCING OF RETIREMENT BENEFITS

Section 141. Limitation on Investment of Retirement Funds.—This section outlines the rules for the investment of fund assets.

The assets of the funds may not be invested in the debt of the District of Columbia, Maryland, or Virginia or in real estate or other holdings in the three jurisdictions. Prior to the Board's acceptance of custody of the funds, assets of the funds may be invested only in "riskless" investments such as U.S. Treasury bills or notes.

Section 142. Determination of Federal and District of Columbia Payments to the Funds.—This section outlines the means of determining the Federal and District of Columbia annual contributions into the funds. The Board will hire an "enrolled actuary" to make the contribution determinations. The "enrolled actuary" must be an actuary enrolled by the "Joint Board for the Enrollment of Actuaries" established under subtitle C of title III of ERISA (Public Law 93–406, 88 Stat. 829).

The actuary, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles, will certify to the Board the net normal cost (as a percentage of payroll), the accrued actuarial liability, the value of assets in the funds, the future Federal obligation, and the net pay-as-you-go cost. The actuary shall make these determinations not later than 60 days after enactment of their Act, and every 3 years thereafter, or upon request of the Board or of the director of the District of Columbia Office of Budget and Management Systems.

The District payment to each fund each year, will be the lesser for each fund of (a) the net normal cost plus the interest on the District's share of the unfunded liability; or (b) the net pay-as-you-go cost plus the amount which, paid annually until 2003, will allow the unfunded liability to increase no more than the rate of inflation. Beginning in 2004, the District will deposit into the fund each year the net normal cost for that year plus 1 year's interest on its share of the unfunded liability. (By 2004, it is intended that the Federal share of the unfunded liability will be reduced to zero).

Prior service cost (changes which the city makes in retirement benefits which create additional retirement liabilities—see appendix A) must be amortized over a 25-year period, the service life of police officers and firefighters.

The Board must submit its request for the Federal amortization payments for the following fiscal year to the President and to the Congress by March 15 of each year through 2003. The Board must submit to the Mayor the amount required for the District's payments at least 30 days prior to the date on which the Mayor must submit his budget request to the Council.

Provision is made for the Mayor to submit additions or changes based on his evaluation of the Board request, along with the Board's budget request, to the Council. The Council can then accept any modifications, but must submit the Board's request along with its own budget to the Congress for approval. This process is similar to the treatment given the District's court systems budget requests, and is intended only as an evaluation consistent with the Mayor's responsibility for fiscal affairs of the District. It is not intended that the Mayor determine the Retirement Board's budget requests.

Section 142(c)(2) allows the Mayor to request larger amounts than recommended by the Board, so the city has the flexibility to build up a reserve in anticipation of future fiscal problems. It also provides flexibility to meet the situation of a change in actuaries resulting in the use of differing actuarial assumptions.

The Comptroller General shall have access to all books and records of the Board.

Section 143. Information About Retirement Programs.—This section requires the Mayor to furnish to the Board any information it requests to carry out its responsibilities.

Section 144. Federal and District of Columbia Payments to the Funds.—This section contains the authorizations for the Federal appropriations to the three funds for fiscal years 1980 through 2004. For each year, there are authorized $49,270,000 for the police and fire fund, $15,510,000 for the teachers' fund, and $220,000 for the judges' fund. If at any time the funds created are not sufficient to meet claims on the funds, the funds shall have a claim on the revenue of the District of Columbia.

Congress is required to make a final determination in 2004 whether it has appropriated sufficient amounts to eliminate its share of the unfunded liability.

Section 145. Reduction in authorized Federal contribution in the event of excessive police and fire disability retirements.—This section provides a "trigger mechanism" to reduce the Federal contribution to the Police and Fire Fund whenever the District's rate of disability retirement exceeds by 2 percent a specified ceiling.

This section states that, beginning in calendar year 1981, a report shall be presented to the Congress that compares the estimated costs (present value as of the date of determination) of future disability retirement benefits for District of Columbia police and firemen who were hired prior to 90 days after enactment of the bill, but who had not yet retired, with the estimated cost of future disability retirement benefits if this same group of District police and firemen had been hired after the 90-day period. If this analysis shows that the cost of disability retirements for the population not covered by the provisions previously mentioned exceeds by more than 2 percent the cost that would have resulted if that population had been covered, the Federal contribution is to be reduced.

To determine the reduction, this bill requires the calculation of the ratio of the number of District of Columbia police and firemen who retired on disability during the preceding calendar year to the total number of District police and firemen who withdrew from the system while eligible for deferred annuity and were hired prior to the end of the stated 90-day period. This ratio, multiplied by the amount authorized for the District of Columbia Police Officers' and Fire Fighters' Retirement Fund, equals the amount that the Federal contribution should be reduced.

This "trigger mechanism" was accepted as a compromise during the House-Senate conference last year. The conference report represented a decision that some of the reforms accomplished by this legislation would apply only to future hires, rather than current employees. At the same time, the committee (and the conference last year) wanted to insure that the retirement program would be tightly managed and that costs would be strictly controlled. This "trigger mechanism" exposes the District to a possible substantial reduction in the Federal contribution if the costs of the system for current employees substantially exceed those which would have occurred under the system with the reforms in effect. It should provide a strong incentive for careful management and administration of the program with respect to current employees.

Section 146. Conforming Amendments.—This section amends the District of Columbia Code to conform with the four prior sections of the bill.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Section 161. Personal Financial Disclosure by Board Members.—Board members must submit personal financial disclosure statements for the prior year to the Mayor, the Council, and the Congress. Such statements must contain information on income sources, debts, investment in securities, interest in banks, insurance companies and financial institutions, and employment with banks, insurance companies and financial institutions, as well as other information which the Council may require.

Section 162. Annual Reports.—The Board must publish an annual report for each fund for each fiscal year and file a copy with the Mayor, the Council, and the Congress. The financial statements in each report must be audited by a certified public accountant and conform to generally accepted accounting principles.

The report must contain a financial statement noting assets and liabilities, with any changes in either; a description of the retirement plan, funding policy with respect to present and past service costs, changes in benefits, lease commitments, and transactions with known parties in interest. The report must contain schedules of assets and liabilities at current value and the value at the end of the preceding year; receipts and disbursements from the fund; investment assets (with identification of issuer, borrower, et cetera); loans in default or written off as uncollectable; leases in default or written off as uncollectable and involvement of known parties in interest in either of the two preceding items; assets held in common or collective trusts; and reportable transactions (that is, transactions involving over 3 percent of the fund's assets, by value.) The report also includes certain measures of the risk-return performance of the fund.

The report must include information on the retirement plans, including number of covered individuals; names and addresses of Board members; names, compensation paid, and nature of services of persons employed by the funds during the year; and reason for any changes in investment counsel, actuary, accountant or insurance carrier.

An actuarial report must accompany the annual report to include date and amount of contributions received; contributions required of both the District and Federal government; accrued liabilities; value of earned benefits; benefits not included in the computations; actuarial assumptions and methods; number of participants and beneficiaries (both retired and nonretired); accumulated assets valuation; contribution amounts required to reduce the accumulated deficiency to zero; and any other information required by the Council or necessary to meet the provisions of this legislation.

The actuarial report must include a statement by any insurance carrier guaranteeing or selling any fund benefits, noting the premium or subscription charges and total premiums or charges paid, premiums received, dividends and certain other information.

The Board will have to maintain the necessary records to comply with filing annual reports, to make periodic redeterminations of the adequacy of Federal and District payments, and to allow a final determination in 2003 whether the Federal financial responsibility has been met.

Section 163. Retirement Program Summary Description.—The Board must furnish participants a summary description of the retirement program; written to be easily understood by the average participant; noting the name and type of administration of the fund; name and address of the chairman of the Board (who acts as agent for legal service); description of relevant provisions of applicable collective bargaining agreements; requirements for eligibility and benefits; a description of nonforfeitable pension benefit provisions and the circumstances under which forfeit may occur; identity of organizations that provide benefits; procedures for presenting claims; and the procedures for redress of wholly or partially denied claims.

Section 164. Filing Reports and Furnishing Information to Participants.—The annual report and the retirement program summary must be filed with the Mayor, Council, and the Congress within 210 days after the end of the fiscal year. The report and summary must be available for public inspection at locations to be specified by the Mayor.

The Mayor, the Council, or either House of Congress may reject a report within 30 days of its filing for reason of incompleteness or material qualifications in the actuary's or accountant's reports. If a satisfactory report is not filed within 45 days after the rejection, the party rejecting the filing may engage an accountant or actuary to review the funds or audit them. No Federal moneys are to be appropriated without an acceptable filing.

The Board must furnish the participants and beneficiaries of the funds copies of the summary retirement program description and the annual report within 90 days of membership. Individuals must receive a summary retirement plan description every 5 years updated with changes or every 10 years if no changes are made. A copy of the summary retirement program description must be furnished participants and beneficiaries within 210 days of the close of each year in which there is a change in the retirement plan's provisions. Copies of the latest fund documents are to be available for inspection in the Board's principal office and elsewhere as needed. Copies of the statement of assets and liabilities and the statement of the fund receipts and disbursements must be furnished to participants and beneficiaries annually within 210 days of the close of the fiscal year.

Copies of any fund documents or reports must be furnished at reasonable cost to any participant or beneficiary who makes a written request. The Board is subject to civil action under section 187 of this act if they fail to comply with such written request or a request under section 165 of this act.

Section 165. Reporting of Participants Benefits Rights.—Any participant or beneficiary may request in writing a statement of total benefits accrued and total nonforfeitable benefits. Such a request may be made no more often than once every 12 months.

Section 166. Public Information.—Retirement program descriptions, reports, and other documents filed with the Mayor, Council, and

Congress are public information and shall be available for inspection in proper locations. All Board meetings are open to the public except to the extent that they involve information concerning an individual's benefits or personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Section 167. Retention of Records.—The Board will keep adequate records for inspection and audit for at least six years from the filing of the last document supported by the records concerned. Except to the extent that the information involved is protected from public disclosure under section 166. All such records shall be available for inspection by the public.

Section 168. Additional Information.—The Board shall publish complications of regulations issued under this title and furnish the Mayor, Council, and Congress additional information when required.

Section 169. Criminal Penalties.—Willful failure to file or prepare documents or reports required in this part of falsification of information contained in such documents or reports is punishable by a $5,000 fine and/or 1 year in prison ($100,000 for persons not an individual). The reporting of benefit rights and the providing of additional information is expected from this requirement.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Section 181. Fiduciary Responsibility.—This section establishes that the Board and each member of the Board shall discharge responsibilities with respect to the Funds as fiduciaries. The Board may also designate one or more persons to exercise responsibilities with respect to the Funds and serve as fiduciaries. Fiduciaries must exercise the diligence of a prudent individual in a like capacity, and the Board members themselves must exercise prudence in the designation and oversight of other fiduciaries. Fiduciaries are to discharge responsibilities solely in the interest of participants and beneficiaries.

Fiduciaries are precluded from permitting assets of the funds to be used in certain transactions with "parties-in-interest," including sale, lease, exchange, loan of money or extension of credit, furnishing goods, services or facilities, or transfer or assets to or for the use of such parties. Fiduciaries may not act adversely to the interests of the fund, participants or beneficiaries or deal with the assets of the funds for his or her own account. They are forbidden to receive consideration from individuals dealing with the funds for their own account.

In spite of these restrictions, fiduciaries are permitted to contract with parties-in-interest for office space, accounting, legal, or other services if the terms are like those ordinarily and reasonably contracted for. Assets of the fund may be invested in financial institutions subject to State or Federal supervision at a reasonable interest rate, and the fund may secure ancillary services from such institutions if the cost is not excessive or unreasonable and it is in the best interest of the funds. The prohibitions noted earlier do not preclude investment in certain pooled, common or collective investment funds of regulated financial institutions which are parties-in-interest if the terms of such investment are reasonable, fair, and authorized by the Board. The prohibitions do not preclude exercise of certain conversion privileges of securities.

Fiduciaries may receive benefits as participants in or beneficiaries of the Funds of which they are fiduciaries, as well as reasonable compensation for actual provision of services, as long as the benefits are computed and paid on a basis consistent with the terms of the retirement program for all participants.

A fiduciary is liable for breach of duty by other fiduciaries if he or she knowingly participates or aids in concealing the breach, enables the breach by failure of responsibility himself or herself, or knows of the breach but fails to take reasonable efforts to remedy it, such as invoking the Board's power to remove members by a two-thirds vote.

Section 182. Liability for Breach of Fiduciary Duty.—All fiduciaries are liable to the fund personally for breaches of their own duties and may be required to restore lost money or be subject to such other equitable or remedial relief as a court may decree. Liability exists, however, only for breaches occurring while a specific fiduciary is a fiduciary of the fund. This latter provision is intended to preclude ancillary or indirect liability of a fiduciary for breaches of co-fiduciaries occurring before the fiduciary became associated with the fund.

Section 183. Exculpatory Provisions; Insurance.—Any provision in an agreement which purports to relieve a fiduciary from personal liability for breaches of duty are void as contrary to the intent of S. 1037. However, the Board, a fiduciary, or the organization (police force, et cetera.) represented may purchase private indemnity insurance to protect fiduciaries if the insurance permits recourse by the insurer against the fiduciary in case of breach.

Section 184. Prohibition Against Certain Persons Holding Certain Positions.—Individuals convicted of certain crimes or violations of certain Federal laws may not serve as administrator, fiduciary, investment counsel, agent, or employee of a fund during the individual's first 5 years after their conviction or release from imprisonment, whichever is later. Exception is made if the individual's civil liberties and rights have been restored or if the Board of Parole of the U.S. Department of Justice determines that there is no risk to the funds from their employment. This decision is made by the Board of Parole after hearing and notice to the appropriate prosecutorial officials. Corporations and partnerships are subject to the preclusion from employment or affiliation with the funds only after notice and hearing by the Board of Parole and determination that it would be inconsistent with the intent of the bill to employ such organizations. A willful violation of these prohibitions is punishable by a fine of up to $10,000, 1 year imprisonment, or both.

Section 185. Bonding.—All fiduciaries, other than certain corporate fiduciaries, must be bonded in an amount equal to at least 10 percent of the amount of assets handled. The bond shall not be less than $1,000 nor more than $500,000 unless the Mayor prescribes, after hearing, that more than $500,000 should be required. The Mayor may not waive the 10-percent limitation. It is unlawful to exercise control over fund assets without being bonded or to be bonded by a party-in-interest with significant direct or indirect interest.

Section 186. Limitation on Actions.—This section sets out a 6-year statute of limitations on actions for breach running from the last date on which the fiduciary could cure the breach (if it is of omission), the date of the last action constituting breach, or from the discovery of the breach if there has been concealment. There is a 3-year statute of limitations with regard to plaintiffs with actual knowledge of the breach running from the time of actual knowledge or from the filing of a report from which knowledge could reasonably be obtained.

Section 187. Civil Enforcement.—Actions may be brought by a participant or a beneficiary under the bill to relieve wrongs, to enforce rights due, to recover benefits due, to remedy prohibited practices, or to sue a fiduciary for breach of duties. Process may be served in any district in which a defendant resides or may be found. The court may, in its discretion, allow attorney's fees or court costs to either party.

The Board as an entity may be liable, up to $100 per day, to a participant or beneficiary for failure to provide required information by mail within 30 days of the request.

The Board may sue or be sued in its own name. The chairman of the Board is subject to service of process, summons, or subpoena.

Section 188. Claims Procedure.—The Mayor will notify participants or beneficiaries of the denial of their claims for benefits and give opportunity for fair review pursuant to regulations promulgated by the Council.

TITLE II—CHANGES IN RETIREMENT BENEFITS

Section 201. Salary Base Period for Computation of Annuities.—The current base period for computation of annuities is any 12 consecutive months of highest pay. This section changes the base period to any consecutive 36 months so that the annuity is computed on the basis of the highest annual rate from averaging the basic salary over any 36 consecutive months. The change made by this section applies only to future employees; current employees remain covered by the 12 month rule.

Section 202. Creditable Service for Full-Time Officials of Employee Organizations.—This section allows officers of employee groups, such as unions, to purchase service credits toward retirement by paying the normal cost of their pensions. This section is retroactive to include service for those currently on such leave.

Section 203. Requirements for Optional Retirement.—Under present law any fireman or policeman with 20 years of service is eligible for normal retirement. This section provides that future employees must reach age 50 and have served 25 years to be eligible for normal retirement. The existing 20 year rule remains for current employees.

Under current law, optional retirement benefits are calculated at 2.5 percent of basic pay for each of the first 20 years and at 3 percent of basic pay for each additional year up to 30 years of service. This section changes the calculation to 2.5 percent for each of the first 25 years and 3 percent for each year thereafter for future employees. The existing rule remains in effect for current employees.

Section 204. Disability Retirement.—Under current law a policeman or fireman may retire on disability if he or she aggravates a disease or injury in the performance of duty, even if the proximate cause of the injury or disease is in doubt or is shown not to be from performance of duties.

This section removes as a basis for disability retirement, *for current and future employees*, the aggravation of a preexisting injury or disease not incurred in the line of duty and requires that a disease or injury be reported to the Board of Police and Fire Surgeons when first diagnosed or incurred. If activity in the line of duty is determined to be the proximate cause of disability, a policeman or fireman will be eligible for a duty-connected disability annuity regardless of the existence of any non-duty-related condition. These provisions are not intended to deny disability benefits to any individual who incurs injury or disease in the performacce of duty, regardless of a preexisting injury or disease.

Further, this section creates a percentage disability system for computation and payment of annuities for future employees. The Board of Surgeons will determine, within a reasonable time, the percentage of physical or mental impairment of a disability applicant. The Police and Firefighters Retirement and Relief Board will determine the percentage of disability based on the percentage of impairment determined by the Board of Surgeons, the nature of the injury or disease, the members position, age and years of service, and other factors affecting the claimant's ability to earn future income. A claimant's disability pension will be computed as it would have been under existing law but reduced by the percentage disability factor if there is less than total disability. However, a claimant's annuity may not be less than 40 percent of basic pay for service-connected injuries or 30 percent of basic pay for non-service-connected injuries.

Section 205. Recovery from disability.—Under this section, the one-year grace period is eliminated and all current and future retirees are required to submit to medical examinations and to file reports of income on an annual basis. Failure to file such reports will result in a suspension in rights to an annuity.

For all members who retire 90 days after enactment, annuities will be reduced based on outside income earned. For each dollar that the total of annuity and earned income exceed 70 percent of the current salary of the last position held, the annuity is reduced by $0.50. Failure to file income reports or willful falsification of such reports will result in a revocation of all present and future rights to an annuity.

Section 206. Survivor's Annuities.—Current law computes the retirement benefit for survivors of police and firemen as the greater of two alternative sums: 40 percent of the member's average pay at time of death or of retirement compensation at time of death, or 40 percent of the corresponding salary for step 6 of salary class 1.

This section changes the pension base for survivors to 40 percent of the "adjusted average pay," defined as the average pay at time of retirement adjusted for cost-of-living from the date of retirement to the date of death.

This adjustment applies also to annuities for surviving children, and the levels of annuities for such children are increased to correspond with civil service levels. These changes are applicable to first payment due 90 days after enactment.

Section 207. Deferred Annuity.—This section provides that a member who has completed 5 or more years of service, but elects to leave prior to normal retirement eligibility at age 50, may receive at age 55, a deferred annuity based on years of service time 2.5 percent of average pay for the first 20 years of service and 3 percent a year thereafter. A member separating from employment may elect to receive a lump sum payment of his or her contributions, thereby voiding all future annuity rights. If the member changes his or her mind before reaching age 55, he or she may regain his or her annuity rights by redepositing with the fund his or her contributions plus interest at the rate (determined by the Mayor) equal to the average return on the fund's investment over the period between withdrawal of deposit and readmittance to the plan.

Section 208. Service Credit.—This section provides that a member who separates from service pursuant to section 206 or is subsequently reappointed to service may replace his or her contributions with interest as determined in section 206 in lump sum or over a 60-month period.

The present law provides that a participant who has prior government service and withdrew his or her contributions when he or she terminated but is now employed as a fireman or policeman may receive credit for past service by redepositing the withdrawn sum plus interest.

The interest owed is computed in the same way it is computed for purposes of section 205.

The effective date is 90 days after enactment, and only payments with respect to repayments and withdrawals occurring entirely after the date are covered.

Section 209. Cost-of-living Adjustments of Annuities.—Present law provides for pension increases at the same time and the same percentage as increases in salaries of active members. This section provides for increases based on the rise in the Consumer Price Index for all urban consumers. This index was chosen over the Consumer Price Index for urban wage earners and clerical workers based on the civil service's and social security intention to use that index. Further, when an individual retires, he receives the last adjustment granted prior to his retirement, prorated to the date of retirement. Survivors annuities are to be adjusted in the same manner (without the 1 percent add-on under the present law).

This section applies to all adjustments beginning 90 days after enactment. Provisions are made to insure continuity of benefits and cost-of-living adjustments between repeal of the old provisions and enactment of the new provisions. This section applies to current as well as future retirees.

Section 210. Authority to Waive Collection of Overpayments.—In order to avoid excessive collection costs, the Mayor is authorized to waive the collection of certain nonfraudulent overpayment of less than $100.

Section 211. Commencing Date of Payment of Annuities.—Under current law, a retiree's annuity commences on the first day of the month following the date of his retirement. This section moves the commencing date forward to the date of retirement.

Section 212. Payment of Annuities to Minors and Mental Incompetents.—Under this section, the payment of annuities to certain guardians of certain persons is a bar to further claim on the District of Columbia for such payments.

Section 213. Improvements in administration of disability retirements.—This section requires the District to adopt standards for disability awards and regulations on the use of outside medical advice.

Section 214. Restriction on retired police officers and firefighters receiving annuity while employed by the District of Columbia government.—This section applies to new employees who retire in the future and then accept employment by the District government. It reduces their salary to insure that they will receive not more than the salary for the position they hold.

PART C—TEACHERS AND JUDGES RETIREMENT BENEFITS

Section 251. Cost-of-Living Adjustments for Teachers' Annuities.—Present law provides for annuity increases based on the rise in the Consumer Price Index, plus a 1-percent add-on to compensate for the lag between the actual increase in the cost-of-living and the month the increase becomes effective.

This section provides for annuity increases based solely on increases in the Consumer Price Index. When an individual retires, he receives the last adjustment granted prior to such retirement. The effective date is 90 days after enactment.

Section 252. Cost-of-Living Adjustments of Judges Annuities.—Present law provides for annuity increases based on the rise in the Consumer Price Index plus a 1-percent add-on to compensate for the lag between the actual increase in the cost-of-living and the month the increase becomes effective. This section provides for annuity increases based solely on the Consumer Price Index. Further, when an individual retires, he receives the last adjustment granted prior to retirement. The effective date is 90 days after enactment.

Section 253. Interest on Teachers Refunds and Deposits.—This section outlines the method used to determine interest on refunds and redeposits into the fund.

Section 254. Interest on Judges' Redeposits.—This section outlines the method to be used to determine interest on redeposits into the fund.

Section 255. Restoration of Teachers Annuities in the Event of Predeceased Beneficiaries.—Under present law, a teacher may elect a reduced annuity to benefit certain other persons. Under this section, if such a person dies, the teachers annuity is restored to its previous level.

Section 256. Termination of teacher's disability annuities based on outside earned income.—This section terminates a teacher's disability annuity prior to normal retirement age if the teacher's earning power is comparable to the current rate of pay of the position occupied at the time the teacher retired on disability.

APPENDIX A

TABLE 1.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED DISTRICT OF COLUMBIA CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE DISTRICT OF COLUMBIA FIRE AND POLICE RETIREMENT SYSTEM

[Dollar amounts are in millions]

	Method of financing					
	Present (pay-as-you-go)		S. 1037		S. 1037 (less Federal contribution)	
Date	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll
Oct. 1, 1978	$1,566.9	49.2	$979.2	45.2	$1,553.3	54.0
Oct. 1, 1979	1,682.5	50.6	1,052.9	46.6	1,657.3	60.0
Oct. 1, 1980	1,804.8	51.9	1,129.9	47.9	1,760.6	65.8
Oct. 1, 1985	2,529.5	59.3	1,565.6	55.3	2,274.1	76.9
Oct. 1, 1990	3,461.1	69.4	2,063.0	66.9	2,885.4	72.9
Oct. 1, 1995	4,613.2	80.5	2,565.8	76.5	3,697.4	76.5
Oct. 1, 2000	6,081.1	87.6	3,040.4	80.6	4,627.6	80.6
Oct. 1, 2005	7,767.2	90.5	3,315.8	99.0	5,260.1	132.9
Oct. 1, 2010	9,972.9	92.6	3,315.8	86.2	5,260.1	112.6
Oct. 1, 2015	12,744.2	94.7	3,315.8	76.5	5,260.1	97.3
Oct. 1, 2020	16,211.7	96.2	3,315.8	69.0	5,260.1	85.3
Oct. 1, 2025	20,572.8	96.1	3,315.8	63.0	5,260.1	75.8

Economic assumptions: 7 percent interest, 5 percent annual wage increases, 5 percent annual annuity increases.

Source: Office of the Secretary of the Treasury, Office of Government Financing.

TABLE 2.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED DISTRICT OF COLUMBIA CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE DISTRICT OF COLUMBIA TEACHERS RETIREMENT SYSTEM

[Dollar amounts are in millions]

	Method of financing					
	Present (pay-as-you-go)		S. 1037		S. 1037 (less Federal contribution)	
Date	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll
Oct. 1, 1978	$798.3	15.3	$617.6	19.8	$798.3	19.8
Oct. 1, 1979	860.5	15.5	655.0	24.5	848.4	24.5
Oct. 1, 1980	926.9	15.7	686.7	27.5	893.6	28.8
Oct. 1, 1985	1,330.9	16.7	840.9	25.8	1,076.1	30.7
Oct. 1, 1990	1,878.5	18.5	2,062.4	18.5	1,325.0	21.5
Oct. 1, 1995	2,601.3	21.2	1,430.7	21.2	1,787.0	21.2
Oct. 1, 2000	3,519.4	26.0	1,851.7	26.0	2,351.4	26.0
Oct. 1, 2005	4,587.6	33.8	2,091.3	41.4	2,703.4	48.7
Oct. 1, 2010	5,746.7	37.8	2,091.3	36.4	2,703.4	42.2
Oct. 1, 2015	7,089.3	37.6	2,091.3	32.0	2,703.4	36.5
Oct. 1, 2020	8,743.0	35.9	2,091.3	38.5	2,703.4	32.0
Oct. 1, 2025	10,859.7	33.6	2,091.3	25.8	2,703.4	28.5

Economic assumptions: 7 percent interest, 5 percent annual wage increase, 5 percent annual annuity increases.

Source: Office of the Secretary of the Treasury, Office of Government Financing.

TABLE 3.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED DISTRICT OF COLUMBIA CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE DISTRICT OF COLUMBIA JUDGES RETIREMENT SYSTEM

[Dollar amounts are in millions]

Date	Method of financing					
	Present (pay-as-you-go)		S. 1037		S. 1037 (less Federal contribution)	
	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payrol
Oct. 1, 1978	$12.5	3.7	$9.9	2.5	$12.5	2.5
Oct. 1, 1979	14.6	3.4	11.7	6.5	14.5	6.5
Oct. 1, 1980	16.8	6.7	13.6	12.0	16.5	12.0
Oct. 1, 1985	29.3	25.6	21.6	55.4	25.7	55.4
Oct. 1 1989	44.9	34.7	23.7	68.7	38.9	74.0
Oct. 1, 1990	65.5	42.9	26.6	53.2	32.3	57.3
Oct. 1, 2000	89.3	61.3	32.8	60.6	39.8	60.6
Oct. 1, 2005	112.9	70.6	33.6	63.8	42.3	69.6
Oct. 1, 2010	140.4	70.2	33.6	59.0	42.3	63.5
Oct. 1, 2015	170.8	76.0	33.6	55.2	42.3	58.8
Oct. 1, 2020	201.8	76.5	33.6	52.3	42.3	55.1
Oct. 1, 2025	237.2	73.5	33.6	50.0	42.3	55.1

Economic assumptions: 7 percent interest, 5 percent annual wage increases, 5 percent annual annuity increases.

Source: Office of the Secretary of the Treasury, Office of Government Financing.

APPENDIX B—BENEFIT COMPARISONS

BRIEF SUMMARY OF POLICE AND FIREMEN RETIREMENT BENEFITS, SELECTED MAJOR CITIES

	New York City		Atlanta police and fire	Kansas City		Baltimore police and fire	Los Angeles police and fire
	Police	Fire		Police	Fire		
Normal retirement date	20 yr service [1]	20 yr of service [1]	Age 55 with 25 yr service.	25 yr of service	25 yr of service	Age 50 with 25 yr of service (may retire at earlier age after 25 yr but pension is actuarially reduced).	20 yr of service.
Normal retirement formula	About 50 percent of pay after 20 yr service plus 1/60 of salary for each year thereafter.[2]	About 50 percent of pay after 20 yr service plus 1/60 of salary for each year thereafter.	2 percent times years of service up to 25 and 1½ percent for each year thereafter.[3]	2 percent times years of service up to 30.	2 percent times years of service up to 30.	2 percent of highest 3 yr's average salary times years of service up to 25 yr, and 1/60 of average salary for each year thereafter.	40 percent of final salary plus 2 percent per year for 21 through 24 yr, 55 percent of 25 yr, plus 3 percent per year for 26 through 30 yr. Maximum pension 70 percent of final salary.
Service-connected total disability.	75 percent of final salary and if eligible for service retirement an additional increment of 1/60 of average salary from date of eligibility for service retirement to date of retirement for each of the 1st 10 yr of service after the completion of the required minimum.	Same as police	65 percent of average salary.	60 percent of final compensation.	50 percent of average final compensation.	66¾ percent of average salary plus an actuarially determined annuity based on members age and contributions. If totally incapacitated pension is 100 percent of compensation at time of retirement.	50 percent to 90 percent of final salary with percentage determined by Board of Pension Commissioners based on 3 medical reports.
Nonservice-connected total disability.	1/40 of final salary times years of service not exceeding 30; maximum 75 percent, minimum 50 percent with 10 or more years, 33½ percent if less than 10 yr.	Same as police	With 5 yr of service entitled to a percentage of full pension the numerator being the service actually completed and the denominator 25 yr	With 10 yr of service entitled to 2 percent of final compensation times years of service.	Entitled to 20 percent of average final compensation plus 2 percent for each year of service in excess of 10 yr; maximum 60 percent.	2½ percent of average compensation times years of service up to 20 yr, and 2 percent for each year thereafter, if age 50 or more limited to 50 percent.	With 5 yr of service entitled to 40 percent of non-service-connected pension base.
Salary used for computing benefits.	3-yr average	3-yr average	3-yr average	3-yr average	2-yr average	3-yr average	Final rate.

See footnotes at end of table.

APPENDIX B—BENEFIT COMPARISONS—Continued

BRIEF SUMMARY OF POLICE AND FIREMEN RETIREMENT BENEFITS, SELECTED MAJOR CITIES—Continued

	New York City		Atlanta police and fire	Kansas City		Baltimore police and fire	Los Angeles police and fire
	Police	Fire		Police	Fire		
Cost-of-living adjustment	No	No	No	Yes, based on CPI with 3 percent limit.	Yes, based on CPI with 3 percent limit.	No	Yes, based on CPI with no limit.
Number of years required for 100 percent vesting.	15 yr	15 yr	20 yr	15 yr	10 yr	No	20 yr.
Employee contributions	Varies according to age, sex, and plan. Rate is determined so as to provide an annuity which will be approximately 25 percent of the service retirement allowance at earliest date for service retirement.	Varies according to age, sex, and plan. Rate is determined so as to provide 25 percent of the cost of all benefits payable on his account.	5–6 percent	7 percent	7 percent	5 percent	7 percent.

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[1] Also have a plan providing retirement after 25 yr of service.

[2] Upon retirement after having become eligible for service retirement but not later than age 63, the member receives an allowance which is the sum of (a) 50 percent of final salary, reduced by an annuity which is the actuarial equivalent of the minimum accumulation (i.e., the amount of normal contribution accumulated with interest to the earliest date for service retirement less the amount of the reserve for increased-take-home-pay on such date); (b) an annuity which is the actuarial equivalent of the accumulated deductions; and (c) for all years of service other than the minimum required service 1/60 of average salary for the period of service after completion of his minimum required service for each of the 1st 10 yr of such service, and a pension-for-increased-take-home-pay which is the actuarial equivalent of the accumulation of the contribution for-increased-take-home-pay made in each such year since Jan. 1, 1967.

BRIEF SUMMARY OF RETIREMENT BENEFITS IN WASHINGTON D.C., AREA POLICE AND FIRE EMPLOYEES

	District of Columbia police and fire	Arlington County police and fire	Fairfax County		Alexandria police and fire	Montgomery County police and fire	Falls Church police (no fire)	Prince Georges County	
			Police	Fire				Police	Fire
Normal retirement date.	20 yr service	Age 50	20 yr service	Age 55 and 6 yr service.	Age 60 or age 50 with 20 yr service.	Age 55 with 15 yr of service or age 46 with 25 yr of service.	20 yr of service	25 yr of service	25 yr.
Normal retirement formula.	2½ percent a year for 1st 20 yr plus 3 percent a year for service in excess of 20 yr. Maximum 80 percent.	2½ percent a year for 1st 20 yr plus 2 percent a year for next 10 yr. Maximum 70 percent.	50 percent plus 2 percent times years of service in excess of 20 yr. Maximum 66⅔ percent.	1½ percent times all service plus ½ percent times all service times salary in excess of social break point.	2½ percent a year for 1st 20 yr plus 2 percent a year for next 10 yr. Maximum 70 percent.	2 percent times years of service up to 36 yr plus up to 2 yr for sick leave credit. Maximum 76 percent.	27 percent times years of service up to 30. Maximum 60 percent.	2 percent times years of service.	2 percent times years of service.
Service-connected total disability.	Greater of 66⅔ percent of average salary of 2½ percent times years of service times salary, but not to exceed 70 percent of salary.	66⅔ percent of average final compensation.	66⅔ percent of salary reduced by any Virginia workmen's compensation.	66⅔ percent of average final compensation reduced by 64 percent of primary social security benefit.	66⅔ percent of final average earnings.	2 percent of final earnings times years of service. Minimum 50 percent maximum 72 percent.	66⅔ percent of final salary reduced to 50 percent 25 yr after employment commenced.	70 percent of average annual compensation reduced by any other disability benefits to which entitled under law, including workmen's compensation.	70 percent of highest years compensation reduced by 50 percent of social security disability benefits and any workmen's compensation.
Nonservice-connected total disability.	With 5 or more years of service entitled to 2 percent of final salary times years of service; minimum 40 percent, maximum 70 percent.	With 5 or more years of service entitled to 2 percent of average final compensation for each year of service; maximum 50 percent.	Same as normal retirement formula if member meets the service requirements. If not, the greater of (1) 10 percent of average salary or (2) 2½ percent of average salary times years of service.	With 5 or more years of service entitled to 2 percent of average final compensation times years of service; minimum $300 a year, maximum, 60 percent.	Same as service-connected total disability.	With 10 yr of service, entitled to 2 percent of earnings times years of service; minimum 30 percent, maximum 72 percent.	Same as service-connected total disability.	With 5 yr of service, 50 percent of average compensation reduced by any other disability benefits to which entitled under law.	With 5 yr of service, 50 percent of highest compensation in any 12 consecutive months reduced by 50 percent of social security disability benefits and any workmen's compensation.

BRIEF SUMMARY OF RETIREMENT BENEFITS IN WASHINGTON D.C., AREA POLICE AND FIRE EMPLOYEES—Continued

	District of Columbia police and fire	Arlington County police and fire	Fairfax County		Alexandria police and fire	Montgomery County police and fire	Falls Church police (no fire)	Prince Georges County	
			Police	Fire				Police	Fire
Salary used for computing benefits.	Highest year	3 yr average	3 yr average	3 yr average	3 yr average	1 yr	3 yr average	3 yr average	3 yr average.
Cost-of-living adjustment.	Yes, plan contains "equalization"; provision which requires that any increase in salary granted to active officers shall be applied equally (in terms of percentage) to retired members.	1½ percent per year.	Yes, based on CPI with 3 percent limit.	Yes, based on CPI with 4 percent limit.	Yes, based on CPI with 5 percent annual limit.	Yes, based on CPI.	No	No	No.
Number of years required for 100 percent vesting.	No vesting	5 yr	No vesting	5 yr	No vesting	10 yr (50 percent with 5 yr).	10 yr (50 percent with 5 yr).	15 yr (50 percent with 5 yr).	15 yr (50 percent with 5 yr).
Employee contributions.	7 percent	4 percent for 1st 30 yr.	12 percent	4 percent plus 1¼ percent of salary in excess of social security wage base ($15.300) in 1976.	8 percent	7½ percent	7 percent	8 percent	2 percent.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

DISTRICT OF COLUMBIA, SECTION 4–502

§ 4–502. Payment and deposit.

Commencing with July 1, 1935, and thereafter, all moneys on June 14, 1935, required to be deposited to the credit of the policemen and firemen's relief fund, District of Columbia, under section 4–503, shall be paid to the collector of taxes of the District of Columbia and deposited in the treasury to the credit of the revenues of said District, *except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act.* (June 14, 1935, 49 Stat. 358, ch. 241, § 1.)

DISTRICT OF COLUMBIA CODE SECTION 4–504a

§ 4–504a. Credit for active service in military or naval forces.

In determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia, "*or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)*" each member of the Metropolitan Police Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, the Fire Department of the District of Columbia, and each member of the United States Secret Service who has actively performed duties other than clerical for ten years or more directly related to the protection of the President, who shall have left active employment in any such department, force, or service to perform active service in the military or naval forces of the United States, shall be credited with all periods of honorable active military or naval service performed on or after September 16, 1940, and prior to the termination of the war as declared by Presidential proclamation or concurrent resolution of the Congress. (July 21, 1947, 61 Stat. 398, ch. 272.)

DISTRICT OF COLUMBIA CODE, SECTION 4–518

§ 4–518. Pension relief allowance or retirement compensation increase.

(a) Notwithstanding section 4–505, each individual heretofore or hereafter retired from active service and entitled to receive a pension relief allowance or retirement compensation under the provisions of sections 4–521 to 4–535 shall be entitled to receive, without making application therefor, with respect to each increase in salary granted by this Act, or hereafter granted by law to which such individual would be entitled if he were in active service, an increase in his pension relief allowance or retirement compensation. Except as otherwise provided in this section, such increase shall be in an amount which bears the same ratio to such increase in salary as the amount of each such individual's pension relief allowance or retirement compensation in effect on the day next preceding such salary increase bore to the salary to which he would have been entitled had he been in active service on the day next preceding such salary increase.

(b) The increase prescribed by subsection (a) of this section in the pension relief allowance or retirement compensation received by an individual retired from active service before the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972 under sections 4–521 to 4–535 as a result of the increase in salary provided by the District of Columbia Police and Firemen's Salary Act Amendments of 1972 shall not be less than 17 per centum of such allowance or compensation.

(c) Each individual retired from active service and entitled to receive a pension relief allowance or retirement compensation under sections 4–521 to 4–535 shall be entitled to receive, without making application therefor, with respect to each increase in salary, granted by any law which takes effect after the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, to which he would be entitled if he were in active service, an increase in his pension relief allowance or retirement compensation computed as follows: His pension relief allowance or retirement compensation shall be increased by an amount equal to the product of such allowance or compensation and the per centum increase made by such law in the scheduled rate of compensation to which he would be entitled if he were in active service on the effective date of such increase in salary.

(d) Each increase in pension relief allowance or retirement compensation made under this section because of an increase in salary shall take effect as of the first day of the first month following the effective date of such increase in salary. (June 20, 1953, 67 Stat. 75, ch. 146, title III, § 301; Aug. 29, 1972, Pub. L. 92–410, title I, § 114, 86 Stat. 640.)

(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.

DISTRICT OF COLUMBIA CODE, SECTION 4–521

§ 4–521. Definitions.

Wherever used in sections 4–521 to 4–535—

(1) The term "member" means any officer or member of the Metropolitan Police force, of the Fire Department of the District of Columbia, of the United States Park Police force, of the Executive Protective Service, and any officer or member of the United States Secret Service Division to whom sections 4–521 to 4–535 shall apply.

(2) The terms "disabled" and "disability" mean disabled for useful and efficient service in the grade or class of position last

occupied by the member by reason of disease or injury, not due to vicious habits or intemperance as determined by the Board of Police and Fire Surgeons, or willful misconduct on his part as determined by the Commissioner.

DISTRICT OF COLUMBIA CODE, SECTION 4-521

§ 4-521. Definitions.

Wherever used in sections 4-521 to 4-535—

* * * * * * *

(4) The term "widower" means the surviving husband of a member or former member if—

(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

(B) he is the father of issue by such marriage**[**.**]**, *in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—*

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage.

* * * * * * *

(17) The term "average pay" means the highest annual rate resulting from averaging the member's rates of basic salary in effect over any **[**twelve consecutive months of police or fire service**]** *thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service, in the case of any other member,* with each rate weighted by the time it was in effect, except that if the member retires under section 4-527 and if on the date of his retirement under the subsection he has not completed twelve consecutive months *or thirty-six consecutive months, as the case may be,* of police or fire service, such term means his basic salary at the time of his retirement.

(18) The term "adjusted average pay" means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum) in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics, between the months in which such member retires and the month immediately prior to the month in which such member dies.

§ 4-523. Creditable service—Military and other government service.

(1) A member's service for the purposes of sections 4-521 to 4-535 shall mean all police or fire service and such military and Government service as is authorized by such sections prior to the date of separation upon which title to annuity is based.

(2) Each member shall be allowed credit for periods of military service served prior to the date of the separation upon which the annuity is based; however, if a member is awarded retired pay on account of military service, such military service shall not be included, unless such retired pay is awarded on account of a service-connected disability (a) incurred in combat with an enemy of the United States or (b) caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation numbered 1(a), part I, paragraph I, or is awarded under title III of Public Law 810, Eightieth Congress. Nothing in sections 4-521 to 4-535 shall affect the rights of members to retired pay, pension, or compensation in addition to the annuity herein provided.

(3) Credit shall be allowed for leaves of absence granted a member while performing military service, excluding from credit so much of any other leaves of absence without pay as may exceed six months in the aggregate in any calendar year.

(4) A member who, during any war or national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered, for the purposes of sections 4-521 to 4-535, as separated from his position by reason of such military service, unless he shall apply for and receive his salary deductions: *Provided*, That such member shall not be considered as retaining such position beyond December 31, 1957, or the expiration of five years of such military service, whichever is later.

[(5) Each member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in paragraph (1) of section 4-521: *Provided*, That such member deposits with the Collector of Taxes of the District of Columbia, for credit to the revenues of the District of Columbia, a sum equal to the entire amount including interest, if any, refunded to him for such period of government service: *Provided further*, That if such member so elects he shall deposit with the Collector of Taxes of the District of Columbia, the total amount of such refund in equal monthly installments not exceeding 24.]

(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Reitrement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act.

ll other members shall deposit such sum with the Mayor of the District f Columbia for credit to the revenues of the District of Columbia. If the ember so elects, he may deposit the total amount of such refund in monthly nstallments not exceeding twenty-four, except that in the case of a member ho is an officer or member of the United States Park Police force, the xecutive Protective Service, or the United States Secret Service Division uch monthly installments shall be of equal amounts. No deposit shall be equired for days of unused sick leave credited under section 4–528.

(B) Interest required on deposits under this paragraph for members ho are officers or members of the Metropolitan Police force or the Fire epartment of the District of Columbia shall be computed as follows:

(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.

(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters Retirement Fund established by Section 122(a) of such Act a sum equal to one-twelfth the annual new entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"*(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 10a(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established in section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.*

"*(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.*

"*(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members of officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.*"

[(6)**]** *(7)* The total service of a member shall be the full years and twelfth parts thereof, excluding from the aggregate any fractional part of a month.

[(7)**]** *(8)* Notwithstanding any other provision of this section, any military service (other than military service covered by military leave with pay from a civilian position) performed by an individual after December 1956 shall be excluded in determining the aggregate period of service upon which an annuity payable under this Act to such individual or to the surviving spouse or child is to be based, if such individual or the surviving spouse or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors benefits under section 202 of the Social Security Act [42 U.S.C. § 402] based on such individual's wages and self-employment income. If in the case of the individual or the surviving spouse such military service is not excluded under the preceding sentence, but upon attaining retirement age (as defined in section 216(a) of the Social Security Act [42 U.S.C. § 416(a)]) he or she becomes entitled (or would upon proper application be entitled) to such benefits, the Mayor shall redetermine the aggregate period of service upon which such annuity is based, effective as of the first day of the month in which he or she attains such age, so as to exclude such service. The Secretary of Health, Education, and Welfare shall, upon the request of the Mayor, inform the Mayor whether or not any such individual or the surviving spouse or child is entitled at any specified time to such benefits. (As amended Oct 1, 1976, D.C. Law 1-87, § 9, 23 DCR 2544.

DISTRICT OF COLUMBIA CODE, SECTION 4-524

§ 4-524. Deductions, deposits and refunds—Order of persons entitled to refunds for deductions.

(1) On and after the first day of the first pay period which begins on or after the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970 there shall be deducted and withheld from each member's basic salary an amount equal to 7 per centum of such basic salary. **[**Such**]** *In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such* deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia, and shall be deposited in the Treasury to the credit of the District of Columbia.

* * * * * *

(2) **[**Any member coming under the provisions of sections 4-521 to 4-535**]** (*A*) *Any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division*, who is separated from his department, except for retirement as authorized by such sections, shall be refunded the amount of the deductions made from his salary under such sections. The receipt of payment of such deductions by such member shall void all annuity rights under such sections, unless and until such member shall be reappointed to any department whose members come under such sections. If such officer or member is subsequently reappointed to any department whose members come under such sections, he shall be required to redeposit the amount of deductions so refunded to him.

(*B*) *Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (l)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election* *of the member, in a lump sum or in not to exceed sixty monthly installments except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.*

(3) In order to facilitate the settlement of the accounts of each member coming under the provisions of sections 4–521 to 4–535 who dies prior to retirement leaving no survivor entitled to receive an annuity under the provisions of such sections, the Commissioner shall pay all deductions for retirement made from the salary of such deceased member to the person or persons surviving at the time of death, in the following order of precedence, and such payment shall be a bar to recovery by any other person of amounts so paid:

First, to the beneficiary or beneficiaries designated in writing by such member, filed with the Commissioner and received by him prior to the death of such member;

Second, if there be no such beneficiary, to the child or children of such deceased member and the descendants of deceased children by representation;

Third, if there be none of the above, to the parents of such member, or the survivor of them;

Fourth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased member: *Provided,* That if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, *except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto.*

(4) In order to facilitate the settlement of the accounts of each former member coming under the provisions of section 4–521 to 4–535 who dies [after retirement] (1) leaving no survivor entitled to receive an annuity under the provisions of sections 4–521 to 4–535 and (2) before the aggregate amount of the annuity paid to such former member equals the total amount deducted and withheld for retirement from his salary as a member, the Commissioner shall pay the difference to the person or persons surviving at the time of death in the following order of precedence, and such payment shall be a bar to recovery by any other person of the amount so paid:

First, to the beneficiary or beneficiaries designated in writing by such former member, filed with the Commissioner and received by him prior to the death of such former member;

Second, if there be no such beneficiary, to the child or children of such deceased former member and the descendants of deceased children by representation;

Third, if there be none of the above, to the parents of such former member, or the survivor of them; and

Fourth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased former member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased former member: *Provided,* That if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, *except that if the member was an officer or member of the*

Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto". (Sept. 1, 1916, ch. 433, § 12(d), as added Aug. 21, 1957, 71 Stat. 393, Pub. L. 85–157, § 3, and amended Aug. 20, 1958, 72 Stat. 686, Pub. L. 85–693, § 1; Oct. 26, 1970, Pub. L. 91–509, § 1(3), 84 Stat. 1136).

§ 4–526. Retirement for disability not incurred in performance of duty.

[Whenever**]** (*1*) *Except as provided in paragraph (2), whenever* any member coming under sections 4–521 to 4–535 completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity computed at the rate of 2 per centum of his average pay for each year or portion thereof of his service: *Provided*, That such annuity shall not exceed 70 per centum of his average pay: *Provided further*, That the annuity of a member retiring under this section shall be at least 40 per centum of his average pay.

(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time or retirement.

DISTRICT OF COLUMBIA CODE, SECTION 4–527

§ 4–527. Retirement for disability while performing or not performing duty.

(1) *Except as provided in paragraph (5), whenever* **[**Whenever**]** any member is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed at the rate of 2½ per centum of his average pay for each year or portion thereof of his service: *Provided*, That such annuity shall not exceed 70 per centum of his average pay, nor shall it be less than 66⅔ per centum of his average pay.

(2) **[**In any case in which the proximate cause of an injury incurred or disease contracted by a member**]** *In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted*

by the member is doubtful, or is shown to be other than the performance of duty, and such injury or disease is shown to have been aggravated by the performance of duty to such an extent that the member is permanently disabled for the performance of duty, such disability shall be construed to have been incurred in the performance of duty. The member shall, upon retirement for such disability, receive an annuity computed at the rate of 2½ per centum of his average pay for each year or portion thereof of his service: *Provided*, That such annuity shall not exceed 70 per centum of his average pay, nor shall it be less than 66⅔ per centum of his average pay.

(3) A member shall be retired under this section only upon the recommendation of the Board of Police and Fire Surgeons and the concurrence therein by the Mayor, except that in any case in which a member seeks his own retirement under this section, he shall, in the absence of such recommendation, provide the necessary evidence to form the basis for the approval of such retirement by the Mayor.

(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or Fire Department of the District of Columbia with respect to the reporting of any injury incurred or aggravated, or any disease contracted or aggravated in the performance of duty.

(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regula-

tions which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

(I) the nature of the injury or disease,

(II) the percentage of impairment reported pursuant to clause (i),

(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

(IV) the age and years of service of the member, and

(V) any other factors or circumstances which may effect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(iii) The percentage of impairment of the percentage of disability for a member to whom this paragraph applied may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity adjusted accordingly.

(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his base salary at the time of retirement.

(v) For purposes of this paragraph—

(I) the term "impairment" means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

(II) term "disability" means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment.

DISTRICT OF COLUMBIA CODE SECTION 4–528

§ 4–528. Optional retirement—Conditions—Suspension of retirement provisions during emergency—Credit for unused sick leave.

(1) Any member who *is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety day period) who completes twenty years of police or fire service,* [completes twenty years of police or fire service] may, after giving at least sixty days' written advance notice to his department head stating his intention to retire and stating the date on which he will retire, voluntarily retire from the service and shall be entitled to an annuity computed at the rate of 2½ per centum of his average pay for each year of service; except that the rate of 3 per centum of his average pay shall be used to compute each year's

police or fire service in excess of [twenty years:] *(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member,* *Provided,* That such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver: *Provided further,* That whenever the Mayor or the Chief of the Executive Protective Service, or the Chief of the United States Park Police force, or the Chief of the United States Secret Service division shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this paragraph, then the Mayor or any of said Chiefs shall be authorized to suspend the retirement provisions of this paragraph in any one or more of the departments under their respective jurisdictions until such time as, in the opinion of the Mayor or any of said Chiefs, respectively, public safety can be adequately protected without such suspension.

(2) Any member of the Metropolitan Police force or of the Fire Department of the District of Columbia having reached the age of sixty years shall, in the discretion of the Commissioner, and any member of the Executive Protective Service or of the United States Park Police force or of the United States Secret Service Division to whom sections 4–521 to 4–535 apply shall, in the discretion of the head of his department, be retired from the service and shall be entitled to receive an annuity as computed in paragraph (1).

(3) No annuity granted under paragraph (1) or (2) [of this section] shall exceed 80 per centum or the average pay of such member.

(4) In computing an annuity under this section, the police or fire service of a member who has not retired prior to the effective date of this paragraph shall include, without regard to the limitation imposed by paragraph (3) of this section, the days of unused sick leave credited to him. Days of unused sick leave shall not be counted in determining a member's eligibility for an annuity under this section. (Sept. 1, 1916, ch. 433 § 12(h), as added Aug. 21, 1957, 71 Stat. 395, Pub. L. 85–157, § 3, and amended Oct. 26, 1970, Pub. L. 91–509, § 1(5)(6), 84 Stat. 1137; Aug. 29, 1972, Pub. L. 92–410, title II, § 201(a)(3), 86 Stat. 641.)

DISTRICT OF COLUMBIA CODE, SECTION 4–530

§ 4-530. Recovery from disability or restoration to earning capacity—Earning capacity defined—Suspension of annuity—Restoration to duty.

(1) If any annuitant retired under section 4–526 or 4–527, before reaching the age of fifty, recovers from his disability or is restored to an earning capacity fairly comparable to the current rate of compensation of the position occupied at the time of retirement, payment of the annuity [shall cease (1) upon reemployment, in the department from which he was retired, (2) one year from the date of the medical examination showing such recovery, or (3) one year from the date of determination that he is so restored, whichever is earliest] *shall cease—*

(A) upon reemployment in the department from which he was retired,

(B) one year from the date of the medical examination showing such recovery,

(C) one year from the date of the determination that he is so restored, or

(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement whichever is earliest.

Earning capacity shall be deemed restored if [in each of two succeeding calendar years], *in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,* the income of the annuitant from wages or self-employment or both shall be equal to at least 80 per centum of the current rate of compensation of the position occupied immediately prior to retirement. Nothing in this section shall preclude such member from having an annuity reestablished if his disability recurs, or when his earning capacity is less than 80 per centum of the rate of compensation of the position occupied immediately prior to retirement for any full year thereafter: *Provided*, That whenever any member is reinstated with his respective department it shall be at the same grade or rank held by the member at the time of his retirement.

(2) When an annuitant recovers prior to age fifty from a disabling condition for which he has been retired, and applies for reinstatement in the department from which he was retired, he shall be reinstated in the same or nearest equivalent grade and salary available as that received at the time of his separation from the service: *Provided*, That such applicant meets the current entrance requirements of such department as to character.

(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages of self-employment, or both, in any calendar year after the calendar year in which he retired—

(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D) the annuity of such annuitant shall be reduced by 50 cents for each $1 of such income received in excess during such year, and

(ii) in an amount in excess of the difference between the current earnings limitations and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reduction provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1 of such excess income received during such year in excess of such difference.

(B) For the purposes of this subparagraph 'the current earnings limitation' for an annuitant means the greater of—

(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

(ii) the current entry level salary for active officers and members, divided by .7.

(C) The reductions provided for in subparagraph (A) shall be made as follows:

(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or he may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(C)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant."

DISTRICT OF COLUMBIA CODE, SECTION 4–531.

§ 4–531. Survivor benefits and annuities—Amount—To whom payable—Election of type of annuity.

(1) If any member—

(A) dies in the performance of duty and the Commissioner determines that (i) the member's death was the sole and direct result of a personal injury sustained while performing such duty, (ii) his death was not caused by his willful misconduct or by his intention to bring about his own death, and (iii) intoxication of the member was not the proximate cause of his death; and

(B) is survived by a survivor, parent, or sibling, a lump sum payment of $50,000 shall be made to his survivor if the survivor received more than one-half of his support from such member or if such member is not survived by any survivor (including a survivor who did not receive more than one-half of his support from such member), to his parent or sibling if the parent or sibling received more than one-half of his support from such member. If such member is survived by more than one survivor entitled to receive such payment, each such survivor shall be entitled to receive an equal share of such payment; or if such member leaves no survivor and more than one parent or sibling who is entitled to receive such payment, each such parent or sibling shall be entitled to receive an equal share of such payment.

(2) In case of the death of any member before retirement, [or] of any former member after retirement, *or of any member entitled to receive an annuity under subsection (1) (regardless of whether such member is receiving such annuity at the time of death)*, leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of (1) 40 per centum of such member's average pay at the time of death, or 40 per centum *(A)* of the basis upon which the annuity, relief, or retirement compensation being received by such former member at the time of death was [computed,] *computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;* or (2) 40 per centum of the corresponding salary for step 6 of salary class 1 of the District of Columbia Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death: *Provided,* That such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death, or by such former member immediately prior to retirement.

[(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of (1) 60 per centum of the member's average pay at the time of his death or of the basis upon which the former member's annuity at the time of his death was computed, divided by the number of eligible children; (2) $996; or (3) $2,988 divided by the number of eligible children: *Provided,* That such member or former member is survived by a wife or husband. If such member or former member is not survived by a wife or husband, each surviving child or student-child shall be paid an annuity equal to the smallest of (1) 75 per centum of the member's average pay at the time of his death or of the basis upon which the former member's annuity at the time of his death was computed, divided by the number of eligible children; (2) $1,200; or (3) $3,600 divided by the number of eligible children.]

(3) Each surviving child or student-child of any member who dies before retirement **[***or***]** *of any former member who dies after retirement, or of any member entitled to receive an annuity under subsection (1) (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of—*

(A) in the case of a member or former member who is survived by a wife or husband—

(i) 60 per centum of—

(I) the member's average pay at the time of death, or

(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

(ii) $1,548; or

(iii) $4,644 divided by the number of eligible children; and

(B) in the case of a member or former member who is not survived by a wife or husband—

(i) 75 per centum of—

(I) the member's average pay at the time of death, or

(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

(ii) $1,860; or

(iii) $5,580 divided by the number of eligible children.

(4) Each widow or widower who, on the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, was receiving relief or annuity computed in accordance with the provisions of this section shall be entitled to receive an annuity in the greater amount of (1) $3,144; or (2) 35 per centum of the basis upon which such relief or annuity was computed. Each child who, on said effective date, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of paragraph (3) of this section.

(5) The annuity of any widow or widower under this section shall begin on the first day of the month in which the member or former member dies, and such annuity or any right thereto shall terminate upon the survivor's death or remarriage before age sixty: *Provided*, That any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce. The annuity of any child under this section shall begin on the first day of the month in which the member or former member dies, and such annuity of such child or any right thereto shall terminate upon (A) his

attaining age eighteen, unless incapable of self-support, (B) his becoming capable of self-support after age eighteen, (C) his marriage, or (D) his death. The annuity of any student-child under this section shall begin on the first day of the month in which the member or former member dies, and such annuity of such child or any right thereto shall terminate upon (i) his ceasing to be a student, (ii) his attaining age twenty-two, (iii) his marriage, or (iv) his death. Such student-child whose birthday falls during the school year (September 1 to June 30) shall be considered not to have reached age twenty-two until July 1, following his actual twenty-second birthday.

(6) Any member retiring under section 4–526, 4–527, or 4–528 [, may] *may* at the time of such retirement, *and any member entitled to receive an annuity under subsection (1) of this section may at the time such annuity commences,* elect to receive a reduced annuity in lieu of full annuity, and designate in writing the person to receive an increased annuity after *such member's* [the retired annuitant's] death: *Provided,* That the person so designated be the surviving spouse or child of *such* [the retiring] member. Whenever such an election is made, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such [retiring] member is reduced. The annuity payable to the member making such election shall be reduced by 10 per centum of the annuity computed as provided in section 4–526, 4–527, or 4–528. Such increase in annuity payable to the designee shall be reduced by 5 per centum for each full five years the designee is younger than the [retiring] member, but such total reduction shall not exceed 40 per centum. The increase in annuity payable to the designee pursuant to this paragraph shall be paid in addition to the annuity provided for such designee pursuant to paragraph (2) or (3) of this section and shall be subject to the same limitations as to duration and other conditions as the annuity paid pursuant to paragraphs (2), (3), and (5) of this section. If, at any time after such former member's *election* [retirement], the designee dies, and is survived by such former member, the annuity payable to such former member shall be increased to the amount computed as provided in section 4–526, 4–527, or 4–528.

[(7)(i) Each month after the effective date of this section the Commissioner shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month, each annuity payable under this section which has a commencing date not later than such effective date shall be increased by 1 per centum plus the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum.

(ii) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

(iii) For purposes of this section, the term "price index" shall mean the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. The term "base month" shall mean the month for which the price index showed a per centum rise, forming the basis for a cost-of-living annuity increase.]

DISTRICT OF COLUMBIA CODE, SECTION 4–533

§ 4–533. Duties of Commissioner in retirement and annuity matters—Certification of physical condition of member—Written notice of hearings—Procedure at hearings—Subpena—Contempt proceedings—Disability retiree to report employment and undergo medical examination.

(1) The Commissioner shall consider all cases for the retirement of members and all applications for annuities under sections 4–521 to 4–535. In each case of retirement of a member the Commissioner shall certify in writing the physical condition of the member for whom retirement is sought. The Commissioner shall give written notice to any member under consideration by him for retirement to appear before him and to give evidence under oath. The proceedings before the Commissioner involving the retirement of any member, or any application for an annuity under sections 4–521 to 4–535, shall be reduced to writing and shall show the date of appointment of such member, his age, his record in the service, and any other information which may be pertinent to the matter of such retirement or annuity. The Commissioner is authorized to administer oaths and affirmations, may require by subpena or otherwise the attendance and testimony of witnesses and the production of documents at any designated place. In the event of contumacy or refusal to obey any such subpena or requirement under this section, the Commissioner may apply to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as a contempt any failure to comply with such order in accordance with the provisions of subsection (c) of section 11–756.

(2)(A) If a member is retired under section 4–526 or 4–527 and is employed on or after the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, such member shall, in accordance with such regulations as the Commissioner shall prescribe, notify the Commissioner of the employment; and the Commissioner shall, as soon as practicable after the receipt of such notice, require each such member to undergo a medical examination (satisfactory to the Commissioner) of the disability upon which the member's retirement under such section is based.

(3) Except in the case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section. (Sept. 1, 1916, ch. 433, 12(m), as added Aug. 21, 1957, 71 Stat, 397, Pub. L. 85–187, §3, and amended July 8, 1963, 77 Stat. 77, Pub. L. 88–60 §1; July 29, 1970, Pub. L. 91–358, title I, §155 (a), 84 Stat. 570; Aug. 29, 1972, Pub. L. 92–410, title, II, § 202(a). 86 Stat. 642.)

DISTRICT OF COLUMBIA CODE, SECTION 4–534

§ 4–534. Payment of annuities—Order of payment on death of annuitant—Waiver.

(1) Each annuity is stated as an annual amount, one-twelfth of which fixed at the nearest dollar, accrues monthly except that an annuity accrues *over any portion of a month after the commencing date*

such annuity but before the first day of the next month and is payable such month in an amount prorated in a manner to be determined by the *ayor*) and is payable on the first business day of the month after accrues.

(*2*) *Payment due a minor, or an individual mentally incompetent or nder other legal disability, may be made to the person who is constituted uardian or other fiduciary by the law of the State of residence of the aimant or is otherwise legally vested with the care of the claimant or his tate. If a guardian or other fiduciary of the individual under legal sability has not been appointed under the law of the State of residence the claimant payment may be made to any person who, in the judgment the Mayor, is responsible for the care of the claimant, and the payment rs recovery by any other person.*

[(2)**]** (*3*) Any person entitled to an annuity under sections 4–521 4–535 may decline to accept all or any part of such annuity by a aiver signed and filed with the Commissioner. Such waiver may be voked in writing at any time, but no payment of the annuity waived hall be made covering the period during which such waiver was in fect.

[(3)**]** (*4*) In order to facilitate the settlement of the accounts of ach person who, at the time of his death, was receiving or was entled to receive, an annuity under sections 4–521 to 4–535, the Comissioner shall pay all unpaid annuity due such person at the time f death to the person or persons surviving at the date of death, in he following order of precedence, and such payment shall be a bar o recovery by any other person of amount so paid:

First, to the widow or widower of such person;

Second, if there be no surviving spouse, to the child or children of uch person, and descendants of deceased children, by representation;

Third, if there be none of the above, to the parents of such person r the survivor of them;

Fourth, if there be none of the above, to the duly appointed legal epresentative of the estate of the deceased person, or if there be none, o the person or persons determined to be entitled thereto under the aws of the domicile of the deceased person. (Sept. 1, 1916, ch. 433, 12(n), as added Aug. 21, 1957, 71 Stat. 398, Pub. L. 85–157, § 3.)

THE POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY ACT OF 1916 (D.C. CODE SEC. 4–521 ET SEQ.)

Deferred Annuities

(*l*)(*1*) *Except as provided in paragraph* (*2*), *any member who is an fficer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is there after separated from his department, except for retirement under subsection* (*f*), (*g*), *or* (*h*), *shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case a member who first became such a* *member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.*

(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed sixty monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

(3) The interest which is required by paragraphs (2) (B) (i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.

THE POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY ACT OF 1916 (D.C. CODE SEC. 4–521 ET SEQ.)

(B) The Mayor shall, by regulation, require any annuitant who is or was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who retired under subsection (f) or (g) of this section to undergo during each twelve-month period following the effective date of this subsection, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulation to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

(2) Such regulations shall further provide for notification by Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences for failure to appear and submit to such examination.

(3) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such member, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such member's retirement under such subsection (f) or (g) is based.

(4) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year in which the member retires, whichever is later, and any calendar year thereafter.

THE POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY ACT OF 1916 (D.C. CODE SEC. 4–521 ET SEQ.)

Cost-of-Living Adjustments of Annuities

(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this deter-

mination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicates a rise in the price index, then—

(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum or,

(B) in the case of an increase under paragraph (2)(B)(i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

(5) For purposes of this subsection, the term "price index" means the Consumer Price Index for all urban consumers published monthly by the Bureau of Labor Statistics.

DISTRICT OF COLUMBIA CODE, SECTION 11-1561

§ 11-1561. Definitions.

For purposes of this subchapter—

* * * * * * *

(4) The term "fund" means the District of Columbia *Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act.* [Judicial Retirement and Survivors Annuity Fund as provided in section 11-1507].

* * * * * * *

(9) The term "lump-sum credit for retirement" means the unrefunded amount consisting of—

(A) retirement deductions made from the basic salary of a judge:

(B) amounts deposited covering earlier judicial and nonjudicial service; and

(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or tansfer *or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier;*

but the term "lump-sum credit for retirement" does not include interest—

(i) if the service covered thereby aggregates one year or less; or

(ii) for the fractional part of a month in the total service.

(10) The term "lump-sum credit for survivor annuity" means the unrefunded amount consisting of—

(A) survivor annuity deductions made from the salary of a judge;

(B) amounts deposited for survivor annuity covering earlier judicial and nonjudicial service; and

(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer *or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and*

but the term "lump-sum credit for survivor annuity" does not include interest—

(i) the service covered thereby aggregates one year or less; or

(ii) for the fractional part of a month in the total service.

(July 29, 1970, Pub. L. 91-358, § 111, title I, 84 Stat. 499; Dec. 7, 1970, Pub. L. 91-530, § 2(a)(5)(6), 84 Stat. 1390).

§ 11-1563. Withholding or retirement payments; lump-sum credit.

(a) There shall be deducted and withheld from the basic salary of each judge appointed after October 31, 1964, and each judge appointed before November 1, 1964, who has elected to come within the provisions of this subchapter an amount equal to 3½ per centum of his basic salary. Amounts so deducted and withheld shall be *paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund* [deposited in the fund in accordance with procedures established by the Commissioner]. Each judge subject to this section shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for all regular service during the period covered by such payment, except the right to the benefits which he shall be entitled under this subsection, notwithstanding any law, rule, or regulation affecting the judge's salary.

(b) If he has not previously so deposited, each judge subject to this section shall deposit in the fund, with interest *computed in accordance with section 11-1564(d)(2)* [at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 or each year], a sum equal to 3½ per centum of his basic salary received for judicial service performed by him as a judge prior to the date he became subject to the District of Columbia Judges Retirement Act of 1964. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Notwithstanding the failure of any judge to make such deposits, credit shall be allowed for the service rendered but the retirement pay for such judge shall be reduced by 10 per centum or such deposit remaining unpaid unless the judge shall elect to eliminate the service involved for purposes of retirement salary computation, except as provided in section 11-1564(d).

(c) If any judge who is subject to this section is removed, resigns, or fails to be recommissioned or reappointed, he is entitled to be paid his lump-sum credit for retirement if application for payment is filed with the Commissioner at least thirty-one days before the commencing date of any retirement salary for which he is eligible. The receipt of the lump-sum for which he is eligible. The receipt of the lump-sum credit for retirement by the judge voids all retirement salary rights under this subchapter, until he is reemployed in judicial service subject to this subchapter.

(d) If a judge who has not elected to bring himself within the survivor annuity provisions of this subchapter dies while in regular active service, the lump-sum credit for retirement shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving him in the order of precedence established in section 11-1569(b). Such payments shall be a bar to recovery by any other person. (July 29, 1970, Pub. L. 91-358, § 111, title I, 84 Stat. 501.)

§ 11-1564. Computation of retirement salary; election to credit other service.

(a) The retirement salary of a judge who retires pursuant to section 11-1562 (a) and (b) shall be paid annually in equal monthly installments during the remainder of his life and shall bear the same ratio to his basic salary immediately prior to the date of his retirement as the total of his aggregate years of service bears to the period of thirty years. A judge who elects to receive a reduced retirement salary pursuant to section 11–1562(b)(2) shall have his retirement salary reduced by one-twelfth of 1 per centum for each month or fraction of a month he is under the age of sixty at the time of the commencement of his reduced retirement salary. In no event shall the retirement salary (including the amount provided by subsection (c) of this section) of a judge exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

(b) The retirement salary of a judge retired for disability pursuant to section 11–1526(b) or section 11–1562 (c) or (d) shall be paid annually in equal monthly installments during the remainder of his life and shall be computed as provided in subsection (a). If a judge is retired for disability, his retirement salary shall not be reduced because of his age at the time of retirement. In no event shall the retirement salary of a judge retired for disability be less than 50 per centum or exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

(c) In computing the retirement salary of a judge retiring under section 11–1562, the judge shall be entitled, if he so elects during the continuance of his judicial service or at the time of his retirement, to receive, in addition to the amount provided for in subsection (a) of this section, an amount (payable annually in equal monthly installments during the remainder of his life) based on military and civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, computed in accordance with section 8339 (a), (b), (c), (d), (g), and (h) of that title, as applicable, subject to the provisions of section 8334 (c) and (d) of that title and the provisions of subsection (d) of this section; except that average pay for the purpose of the computation shall be deemed to be the basic salary of the judge immediately prior to the date of his retirement under section 11–1562.

(d)(1) The crediting of service with respect to any judge under subsection (c) of this section shall be made on the standard basis of a deposit in the sum equal to 3½ per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in paragraph (2) of this subsection.

[(2) Interest on deposits under this subsection is computed from the midpoint of each service period included in the computation to the date of deposit or the commencing date of the retirement salary of the judge, whichever date is the earlier. Interest is computed at the rate of 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter, compounded annually. Interest may not be charged for a period of separation from the service which began before October 31, 1956.]

(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows.

(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement

Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

(ii) for so much of any such period which occurs between January 1, 1948, and the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956.

(3) Deposit under this subsection may not be required for—

(A) service before August 1, 1920;

(B) military service; or

(C) service for the Panama Railroad Company before January 1, 1924.

(4) If a judge elects to be credited with service under subsection (c) of this section, his lump-sum credit, or any remaining balance thereof, in the Civil Service Retirement and Disability Fund or in the retirement fund of any other retirement system for civilian employees of the Government of the United States or the District of Columbia, shall be transferred to the District of Columbia [Judicial Retirement and Survivors Annuity Fund] *'Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act*. The judge shall be deemed to consent to the transfer. The transfer shall be a complete discharge and acquittance of all claims and demands against the retirement system from which the funds were transferred on account of the service so credited.

(5) A judge whose lump-sum credit is transferred to the fund under paragraph (4) of this subsection is not required to make deposits in addition to the amount transferred for periods of service for which full contributions were made to the retirement system from which the transfer was made.

(6) In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who has not elected a survivor annuity under section 11–1566, or prior corresponding provision of law, the Commissioner shall refund to the judge any amount which the Commissioner determines to be in excess of the amount of the deposit required by this subsection. In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who, prior to the effective date of this section, had elected a survivor annuity and made deposits to the fund for survivor annuity purposes, the Commissioner shall refund to the judge any amount which the Commissioner determines in excess of the amount of the deposit required by section 11–1567.

(7) If any civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, is not covered by the amount of the lump-sum credit transferred under paragraph (4) of this subsection, the judge may make deposit, on the standard basis prescribed by paragraph (1) of this subsection, with interest as provided in paragraph (2) of this subsection, in accordance with and subject to the applicable provisions of section 8334 (c) and (d) of that title, of the amount or amounts necessary for him to receive full credit for that service for the purposes of subsection (c) of this section. The deposit may be made, as the judge may elect, in installments, during the continuance of his judicial service, in such amounts as the Commissioner may determine in each instance, or in a lump sum prior to or at the time of his retirement under section 11–5162. A judge electing to make installment deposits shall not be given full credit for the service until the total required deposit is made.

(8) For the purpose of survivor annuity, deposits authorized by this subsection also may be made by the survivor of a judge.

(e) Nothing in this subchapter shall prevent a judge eligible therefor from simultaneously receiving his retirement salary under this section and any annuity or retired pay to which he would otherwise be entitled under any other law without regard to this subchapter. However, in computing the retirement salary of a judge under this section, service used in the computation of such other annuity shall not be credited. (July 29, 1970, Pub. L. 91–358, § 111, title I, 84 Stat. 501.)

DISTRICT OF COLUMBIA CODE, SECTION 11–1567

§ 11–1567. Survivor annuity; payments to fund.

(a) There shall be deducted and withheld from the salary (whether basic or retirement) of each judge who has elected survivor annuity a sum equal to 3 per centum of that salary. The amounts so deducted and withheld shall, in accordance with such procedures as may be prescribed by the Commissioner, be deposited in the fund. Every judge who elects survivor annuity shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the survivor annuity provisions of this subchapter.

(b) If he has not previously so deposited, each judge who has elected survivor annuity shall deposit to the fund, with interest *computed* *in accordance with section 11–1564(d)(2)* [at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year], a sum equal to 3 per centum of his salary received for judicial service and of retirement salary (but excluding salary for judicial service under section 11–1565); and a sum equal to 3 per centum of his basic salary, pay or compensation for civilian service creditable under section 8332 of title 5, United States Code with interest as provided in section 11–1564(d). Except to the extent that the Commissioner has made refund to the judge under section 11–1564(d)(6), deposit is not required with respect to that portion of the service of the judge covered by the transfer, under section 11–1564(d)(4), of his lump-sum credit to the fund. In addition, deposit may not be required for the types of service described in section 11–1564(d)(3). Each judge may elect to make deposits under this subsection in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Deposits under this subsection also may be made by the survivor of a judge.

(c) If a judge or survivor fails to make such deposits, credit shall be allowed for the service, but the annuity of the widow or widower of such judge shall be reduced by an amount equal to 10 per centum of the deposit required by this section, computed as of the date of the death of the judge, unless the widow or widower elects to eliminate the service not covered by deposit entirely from credit for computation purposes except as provided in section 11–1564(d)(3). (July 29, 1970, Pub. L. 91–358, § 111, title I, 84 Stat. 504.)

DISTRICT OF COLUMBIA CODE, SECTION 11–1569

§ 11–1569. Survivor annuity; payment; order of precedence.

(a) Survivor annuities shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued.

(b) In any case in which—

(1) a judge who has elected survivor annuity shall die (A) while in regular active service after having rendered five years of allowable service as provided in section 11–1568(a) or while receiving retirement salary under this subchapter but without a survivor or survivors entitled to annuity under section 11–1568(c) or (B) while in regular active service but before having rendered five years of allowable service; or

(2) the right of all persons entitled to an annuity under section 11–1568(c) based on the service of the judge shall terminate before a valid claim therefor shall have been established;

the lump-sum credit shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

First, to the beneficiary or beneficiaries whom the judge may have designated in writing to the Commissioner prior to the judge's death;

Second, if there be no such beneficiary, to the widow or widower of the judge;

Third, if none of the above, to the child or children of the judge and the descendants of any deceased children by representation;

Fourth, if none of the above, to the parents of the judge or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

Sixth, if none of the above, to such other next of kin of the judge as may be determined by the Commissioner to be entitled under the laws of the domicile of the judge at the time of his death.

Determination as to the widow, widower, or child of a judge for purposes of this subsection sha'l be made by the Commissioner without regard to the definitions in section 11–1561.

(c) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid (together with any amounts received by the judge as retirement salary) equals the total amount credited to the individual account of the judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge *or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier,* the difference shall be paid upon establishment of a valid claim therefore, in the order of precedence prescribed in subsection (b).

* * * * * * *

DISTRICT OF COLUMBIA CODE, SECTION 11–1570

§ 11-1570. Retirement and annuity fund.

(a) The District of Columbia Judicial Retirement and Survivors Annuity Fund is hereby continued in the Treasury and appropriated for the payment of retirement salaries, annuities, refunds, and allowances as provided in this subchapter *until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act.* [If at any time the balance of the fund is insufficient to pay current obligations arising under this subchapter, there is authorized to be appropriated to the fund, out of any moneys in the Treasury of the United States to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to pay current obligations. The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the fund, and shall make actuarial evaluations of the fund at intervals of five years or more if deemed necessary by the Secretary.] *Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such fund.*

(b) The Secretary shall invest, from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, any portions of *the District of Columbia Judicial Retirement and Survivors Annuity Fund* [such funds] as in his judgment may not be immediately required for payments *under the first sentence of subsection* (a) [from the fund] and the income derived from such investments shall constitute a part of the *District of Columbia Judicial Retirement and Survivors Annuity Fund* [fund].

(c) All amounts deposited by, or deducted and withheld from the salary of, any judge for credit to the fund shall, under regulations prescribed by the Commissioner, be credited to an individual account of the judge.

(d) None of the moneys mentioned in this subchapter (*including moneys in the District of Columbia Judges' Retirement Fund*) shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process. (July 29, 1970, Pub. L. 91–358, § 111, title I, 84 Stat. 507.)

DISTRICT OF COLUMBIA CODE, SECTION 11–1571

§ 11–1571. Periodic increases; existing rights.

(a) The retirement salary of any judge, or the annuity of any person based upon the service of a judge, who, on the effective date of any increase which, after the effective date of this section, becomes payable under the provisions of section 8430 (b) of title 5, United States Code, is receiving such salary or annuity, *or who, before such increase the next first becomes payable under such section, receives such salary or annuity, either* (1) under the provisions of this subchapter, or (2) under the provisions of section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, shall be increased on the effective date of the increase by a percentage equal to the percentage of such increase under section 8340 of title 5, United States Code.

(b) Nothing in this subchapter shall defeat or diminish rights acquired under section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, except on the election and with the consent of the judge, annuitant, or other person affected. (July 29, 1970, Pub. L. 91–358, § 111, title I, 84 Stat. 507.)

DISTRICT OF COLUMBIA CODE, SECTION 31–707

§ 31–707. Longevity payable from District revenues—Calculation of annual appropriations—Certification to Budget Bureau—Reserves held by Treasurer of United States—Interest.

The second and third parts of the annuity provided for by section 31–705 shall be paid by appropriations from the same fund as the current expenses of the District of Columbia were paid on June 11, 1926, or may thereafter be paid. [The amount of each year's appropriation shall be calculated, on an actuarial basis, as a level percentage of the pay-roll of all participants which shall be adequate to cover the liability normally accrued plus a further level percentage of the pay-roll computed to be sufficient to liquidate, within a period of approximately thirty years after July 1, 1926, the amount of the accrued liability as of that date. The amount of the necessary appropriations shall be certified each year by the Commissioner of the District of Columbia to the Office of Management and Budget, and shall be transmitted by it to Congress.]

The reserves created as the result of such annual appropriations shall be held by the Treasurer of the United States separate from the fund created by the contributions of the teachers, and the fund shall be credited with interest at four per centum per annum, compounded annually. The fund thus created shall be held and invested by the Treasurer of the United States until paid out as hereinafter provided, and the income derived from such investments shall constitute a part of said fund for the purpose of carrying out the provisions of this subchapter. (Jan. 15, 1920, 41 Stat. 388, ch. 39, § 7; June 11, 1926, 44 Stat. 728, ch. 556, § 1.)

DISTRICT OF COLUMBIA CODE, SECTION 31–715

§ 31–715. Records to be kept by Commissioner of the District of Columbia—Annual report to Congress—Annual actuarial evaluation of fund.

The Commissioner of the District of Columbia shall prepare and keep all needful tables, records, and accounts required for carrying out the provisions of this subchapter. The records to be kept shall include data showing the mortality experience of the teachers in the service of the public schools of the District of Columbia and the rate of withdrawal from such service, and any other information pertaining to such service that may be of value and may serve as a guide for future valuations and adjustments of the plan for the retirement of teachers. [The Commissioner of the District of Columbia shall make a detailed comparative report annually to Congress showing all receipts and disbursements under the provisions of this subchapter, together with the total number of persons receiving annuities and the amounts paid them. And the Commissioner of the District of Columbia shall have made each year an actual valuation of this retirement fund and the operation thereof, which shall show the financial condition of the fund, and shall report the findings of such investigations to Congress at the opening of the following session. (Jan. 15, 1920, 41 Stat. 389, ch. 39, § 14, formerly § 15; renumbered and amended June 11, 1926, 44 Stat. 730, ch. 556, § 1.)]

DISTRICT OF COLUMBIA CODE, SECTION 31–716

[§ 31–716. Annual estimate—No officer or employee receiving regular salary from Government shall receive additional compensation.]

The Commissioner of the District of Columbia shall include in his annual estimates of appropriations a sum sufficient to carry out the provisions of this subchapter and acts amendatory thereof. No officer or employee receiving a regular salary or compensation from the Government shall receive any additional salary or compensation for any service rendered in connection with the system of retiring teachers provided for by this subchapter. (Jan 15, 1920, 41 Stat. 389, ch. 39, § 15, formerly § 16; renumbered and amended, June 11, 1926, 44 Stat. 730, ch. 556, § 1.)]

DISTRICT OF COLUMBIA CODE, SECTION 31–716A

[§ 31–716a. Estimates of annual appropriations—Actuarial valuations.]

[On and after July 31, 1953, the Treasury Department shall prepare the estimates of the annual appropriations required to be made to the teachers' retirement fund, and shall make actuarial valuations of such fund at intervals of five years, or oftener if deemed necessary by the Secretary of the Treasury, and the Commissioner of the District of Columbia is authorized to expend from money to the credit of the teachers' retirement fund not exceeding $5,000 per annum for this purpose, including personal services. (July 31, 1953, 67 Stat. 279, ch. 299 § 1.)**]**

DISTRICT OF COLUMBIA CODE, SECTION 31–721

§ 31–721. Deductions—Interest bearing accounts—Optional deposits—Refunds.

Beginning on the first day of the first pay period which begins after December 31, 1969, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 7 per centum of the teacher's annual salary. The amounts deducted and withheld from the annual salary of each teacher, including amounts so deducted and withheld prior to July 1, 1946, under subchapter I of this chapter, shall be credited to an individual account of the teacher from whose salary the deduction is made, together with interest at 4 per centum per annum, compounded annually up to the effective date of this subchapter and thereafter at 3 per centum per annum, compounded annually from December 31 of the year in which the deductions are made: *Provided,* That such interest shall not be credited after December 31, 1956, except that in the case of a teacher separated before he has completed five years of eligible service interest shall be credited to the date of separation *or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier*. These individual interest-bearing accounts shall be kept by the Auditor of the District of Columbia. *After the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.*

Any teacher may at his option and under such regulations as may be prescribed by the District of Columbia Council deposit with the **[**Collector of Taxes, District of Columbia,**]** *Custodian of Retirement Funds* additional sums in multiples of $25 but not to exceed 10 per centum per annum of his annual salary, pay, or compensation for services rendered since March 1, 1920, which amount together with interest thereon *computed in accordance with section 24(a) of this Act* **[**at 3 per centum per annum compounded as of December 31 of each year**]**, shall, at the date of his retirement, be available to purchase an annuity as he shall elect in accordance with such rules and regulations as may be prescribed by the Council, in addition to the annuity provided by this subchapter; the purchase price of such annuity shall be based upon **[**an interest rate of 3 per centum per annum compounded annually**]** *the interest rate computed in accordance with section 24(a) of this Act* and upon such table of mortality as shall from time to time be prescribed by the Council. In the event of death or separation from the service of such teacher before becoming eligible for retirement on annuity, the amounts so deposited with interest at 3 per centum compounded annually from December 31 of the year in which the deposits are made *to the date of such death or separation or the* *nd of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier* shall be refunded in accordance with the provisions of sections 31–729 and 31–730, respectively. A separate individual account shall be kept by the Auditor of the District of Columbia with respect to the voluntary deposits and interest of each teacher. (Aug. 7, 1946, 60 Stat. 875, ch. 779, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 1; Aug. 5, 1955, 69 Stat. 530, ch. 569, title V, § 21; June 4, 1967, 71 Stat. 46, Pub. L. 85–46, § 1; Dec. 29, 1967, Pub. L. 90–231, § 1(1), 81 Stat. 747; May 22, 1970, Pub. L. 91–263, § 1(d)(1), 84 Stat. 257.)

DISTRICT OF COLUMBIA CODE, SECTION 31–721a

§ 31–721a. Retirement credit for certain leave without pay—Matching retirement deposits.

(a) Any teacher who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of teachers, for the purpose of bargaining with the District of Columbia concerning grievances, disputes, hours of employment, or conditions of work, may, within sixty days after entering on such leave without pay, file with the Board of Education of the District of Columbia an election to receive full retirement credit for his periods of that leave without pay and arrange to pay currently into the teachers' retirement fund established pursuant to this subchapter, through the Board of Education, amounts equal to the retirement deductions plus additional amounts equivalent to such amounts, in lieu of District of Columbia contributions which would be applicable if he were in pay status. A teacher who is on approved leave without pay and serving as a full-time officer or employee of such an organization on May 22, 1970, may similarly make such election within sixty days after such date. If the election and all payments herein provided are not made, the teacher shall receive no credit for such periods of leave without pay occurring on or after May 22, 1970.

(b) A teacher may deposit **[**with interest at 4 per centum compounded annually**]**, *with interest computed in accordance with section 24(b) of this Act*, an amount equal to retirement deductions representing any period or periods of approved leave without pay while serving, prior to May 22, 1970, as a full-time officer or employee of an organization composed primarily of teachers, and may receive full retirement credit for such period or periods of leave without pay. In the event of the death of such teacher any individual entitled to annuity under this subchapter may make such deposit. (Aug. 7, 1946, ch. 779, § 1A, as added May 22, 1970, Pub. L. 91–263, § 3, 84 Stat. 259.)

DISTRICT OF COLUMBIA CODE, SECTION 31–722

§ 31–722. Retirement annuity fund—Income from investments—Separate accounts.

[The**]** *Until the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the* amounts so deducted and withheld from the annual salary of every teacher, and the amounts of additional voluntary deposits, shall be deposited in the Treasury of the United States to the credit of the teachers' retirement and annuity fund. As of the effective date of this subchapter, there shall be transferred and credited to such fund the balances of funds held for the retirement of teachers under the provisions of sections 31–702 and 31–707. The fund thus created shall be held and invested by the Secretary of the Treasury until paid out as hereinafter provided, and the income derived from such investment shall constitute a part of said fund for the purpose of carrying out the provisions of this subchapter, and for payment of administrative expenses incurred by the Commissioner of the District of Columbia in placing in effect each annuity adjustment granted under section 31–739a. Separate accounts shall be maintained by the Treasury with respect to (1) the regular operations of the retirement system, exclusive of those incident to the voluntary deposits; and (2) the voluntary deposits and the supplementary annuities and refunds resulting from such deposits. (Aug. 7, 1946, 60 Stat. 876, ch. 779, § 2; July 5, 1966, 80 Stat. 267, Pub. L. 89–494, § 2).

DISTRICT OF COLUMBIA CODE, SECTION 31–724

§ 31–724. Disability—Annual examination—Reappointment—Discontinued annuity—Voluntary deposits.

Any teacher who completes five years of eligible service, and who, before becoming eligible for retirement under the conditions defined in sections 31–721 to 31–723, becomes physically or mentally disabled and incapable of satisfactorily performing the duties of his position, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the teacher, shall upon his own application or upon order of the Board of Education as provided later in this section be retired on an annuity computed in accordance with the provisions of sections 31–725 and 31–726 and beginning on the day after his pay ceases and he meets the service and disability requirements for title to annuity. Proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than five years next prior to becoming so disabled for useful and efficient service shall not be required in any case. No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within six months thereafter. No teacher shall be retired under the provisions of this section unless examined under the direction of the Director of Public Health of the District of Columbia, and as a result of said examination, in his judgment, or in the judgment of the Superintendent of Schools concurred in by two-thirds of the members of the Board of Education, shall have been found to be physically or mentally incapacitated for efficient service.

Every annuitant retired under the provisions of this section, unless the disability for which retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching retirement age as defined in section 31–723 hereof, be examined under the direction of the Director of Public Health of the District of Columbia in order to ascertain the nature and degree of the annuitant's disability, if any. If an annuitant shall recover before reaching retirement age he shall be reappointed by the Board of Education in accordance with such rules and regulations as the said Board may prescribe to the first position, equal or similar to any position in the public schools occupied by the annuitant before retirement, which becomes vacant after the date the Board of Education receives written notification from the Director of Public Health of the District of Columbia that the annuitant has recovered and is able to discharge his duties as a teacher in the public schools of the District of Columbia. Payment of the annuity shall be continued until the date of reappointment by the Board of Education. In the event that the annuitant refuses to accept the employment prescribed in this section no annuity shall be paid after the date of such refusal. Should the annuitant fail to appear for examination as required under this section payment of the annuity shall be suspended until continuance of the disability shall have been satisfactorily established. Upon written recommendation of the Superintendent of Schools the Board of Education may order or direct at any time such medical or other examination as it shall deem necessary to determine the facts relative to the nature and degree of disability of any teacher retired on an annuity under this section.

In all cases where the annuity is discontinued under the provisions of this section, so much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against his individual account and, unless he shall become reemployed in a position under the purview of this subchapter, he shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits of section 31–729 hereof: *Provided, however,* That if such teacher were also receiving an annuity because of voluntary deposits made under the provisions of section 31–721, such annuity may be continued or, at the option of the teacher, the actuarial reserve value of such annuity may be withdrawn in cash unless the teacher is reemployed in a position within the purview of this subchapter, in which case the amount of such reserve value shall be treated as a voluntary deposit under the provisions of section 31–721.

Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section 3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1, of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.

DISTRICT OF COLUMBIA CODE, SECTION 31–725 COMPUTATION OF ANNUITY—OPTIONS

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(b) Any teacher retiring under the provisions of section 31–723 or 31–724 may at the time of retirement, elect to receive in lieu of the life annuity described herein one of the following:

(1) A reduced annuity and an annuity after death payable to the surviving widow or widower of such teacher. The life annuity of a teacher making such election, or any portion of such annuity designated by the teacher in writing for such purposes at the time of retirement, shall be reduced by 2½ per centum of so much thereof as does not exceed $3,600 and by 10 per centum of so much thereof as exceeds $3,600. The widow or widower of a teacher making such election shall be entitled to an annuity equal to 55 per centum of such life annuity, or designated portion thereof, except that if a retired teacher who has elected a reduced annuity as provided in this paragraph or in subsection (d) of this section dies and is survived by a widow or widower whom he or she married after retirement, such widow or widower is entitled to an annuity in an amount which would have been paid had the teacher been married to the widow or widower at the time of retirement, but only if (A) such widow or widower was married to such individual for at least two years immediately preceding the teacher's death, or is the mother or father of issue of such marriage, and (B) such widow or widower elects this annuity instead of any other survivor benefit to which he or she may be entitled under this Act or another retirement system for employees of the Federal or District Government. The annuity of a widow or widower entitled to an annuity under this paragraph shall begin on the day after the retiree dies. Such annuity and any right thereto shall terminate on the last day of the month before (A) the widow or widower dies, or (B) the widow or widower remarries before becoming sixty years of age. In the case of a surviving widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming sixty years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(i) the surviving widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving widow or widower may be entitled, under this subchapter or another retirement system for employees of the Federal or District Government, by reason of the remarriage; and

(ii) any lump sum paid on termination of the annuity is [returned to the teachers' retirement and annuity fund established under section 2 of this Act.] *repaid to the Custodian of the Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act*

* * * * * * *

(3) A reduced annuity of equivalent value providing for a life-insurance benefit payable in a lump sum at the time of the annuitant's death. The face amount of such life insurance may be in any amount which the retiring teacher shall designate at the time of retirement but shall not exceed his contributions accumulated with interest to the date of retirement. Payment of such insurance shall be made in accordance with the provisions of section 31–730. Any annuitant who elects to receive the reduced annuity with fixed life-insurance benefits may reconvert the value of the life insurance to an additional annuity of equivalent value of any anniversary of the retirement date of said annuitant prior to reaching age seventy.

(4) In the event an individual designated as a surviving widow or widower or a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.

DISTRICT OF COLUMBIA CODE, SECTION 31–727

[§ 31-727. Appropriations calculation.]

[The amount of each year's appropriation shall be such amount as is necessary to maintain during such fiscal year a balance in the teachers' retirement fund approximately equal, to the nearest million dollars, to the balance in that fund on June 30, 1969, or such amount as is necessary to maintain the equity in such fund of all teachers, active and retired, whichever amount is greater. If at any time the balance in the Teachers' Retirement Fund is not sufficient to meet all obligations against such fund, the fund will have a claim on the District of Columbia revenues to the extent necessary to meet such obligations. (Aug. 7, 1946, 60 Stat. 879, ch. 779, § 7; Aug. 4, 1947, 61 Stat. 750, ch. 476; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 6; May 22, 1970, Pub. L. 912-63, § 4, 84 Stat. 260.)]

DISTRICT OF COLUMBIA CODE, SECTION 31–728

§ 31-728. Term of service—Reduction of annuity—Contributions on leave—Monthly deposits.

The years of service which form the basis for determining the amount of the annuity provided in section 31–725(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay beginning on May 1, 1952, as does not exceed six months in the aggregate in any fiscal year, plus any service credit that may be allowed under the provisions of this section: *Provided*, That deposits equal to 5 per centum of those portions of salary received between July 1, 1949, and May 1, 1952, for which service credit was not earned may be made, and service credit received accordingly. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been in a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of chapter 81 of title 5, United States Code, or any earlier statute on which such subchapter is based. In computing an annuity under section 31–725(a) the total service of a teacher shall include days of unused sick leave

credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for (a) public-school service or its equivalent outside the District of Columbia but not to exceed ten years; (b) continuous temporary service in the public schools of the District of Columbia immediately prior to probationary appointment; (c) service in the government of the District of Columbia or the Government of the United States allowable under subchapter III of chapter 83 of title 5, U.S. Code [relating to retirement of government employees]; (d) periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) prior to the date of the separation upon which title to annuity is based; except that, if a teacher is awarded retired pay on account of military service, his military service shall not be included unless such retired pay is awarded on account of a service-connected disability (1) incurred in combat with an enemy of the United States or (2) caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part 1, paragraph 1, or is awarded under title III of Public Law 910, Eightieth Congress; (e) all eductional leaves of absence with part pay authorized by the Board of Education in accordance with sections 31–632 to 31–637; and (f) continuous temporary service as an employee of any cafeteria or lunchroom operated in the public school buildings of the District of Columbia during any period prior to the date on which such cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately prior to appointment as a teacher in the public schools of the District of Columbia: *Provided, however*, That that portion of the annuity which results from credit for service allowable under (a) and (c) of this section shall be reduced by the amount of any annuity which the retired teacher is entitled to receive under any Federal, State, or municipal retirement or pension system in respect to such service, except that such portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit which the teacher is required to make under the provisions of this section in order to obtain credit for such service: *Provided further*, That no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 31–632 to 31–637, shall be given to any teacher entering the said public schools after June 30, 1926, until he shall have deposited to the credit of the teachers' retirement and annuity fund of the District of Columbia a sum equal to the [accumulated contributions and interest] *(1) the accumulated contributions* which he would have had credited to his individual account if such service had been rendered on active duty in the public schools of the District of Columbia, said contributions to be based on the average annual salary of the class to which the teacher is appointed, *and (2) interest thereon computed in accordance with section 24(b) of this Act: Provided further*, That all contributions to the retire-

ment fund made by any teacher on educational leave with part pay shall be determined in accordance with the provisions of section 31–721, but otherwise no provision of this subchapter shall be interpreted to deprive any teacher employed by the Board of Education of any rights or benefits allowable under sections 31–632 to 31–637. If the teacher so elects he may deposit the required sum in the teacher's retirement and annuity fund in monthly installments [with interest at 3 per centum per annum compounded annually.] upon making a claim with the Commissioner of the District of Columbia, or his designated agent. Except as otherwise provided in this paragraph, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year.

A teacher who during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service, as defined in this section, shall not be considered, for the purposes of this subchapter, as separated from his teaching position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under this subchapter, except that such teacher shall not be considered as retaining his teacher position beyond six months after the date of the approval of this Act or the expiration of five years of such military service, whichever is later.

Nothing in this subchapter shall affect the right of a teacher to retired pay, pension, or compensation in addition to the annuity herein provided.

Notwithstanding the provisions of this section, any teacher who is entitled to purchase service credit under the provisions of section 31–1532(d) shall purchase such credit based on the salary received from the Board of Higher Education during the period of service to be credited. (Aug. 7, 1946, 60 Stat. 879, ch. 779, § 8; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 7; Aug. 5, 1955, 69 Stat. 536, ch. 575, § 2; June 4, 1957, 71 Stat. 47, Pub. L. 85–46, § 1; Dec. 29, 1967, Pub. L. 90–231, § 1(5), 81 Stat. 748; May 22, 1970, Pub. L. 91–263, § 1(b), 84 Stat. 257; Oct. 21, 1972, Pub. L. 92–518, title II, §§ 201(3), 202(a)(1), 203(b), 86 Stat. 1013, 1014.)

DISTRICT OF COLUMBIA CODE, SECTION 31–729

§ 31–729. Deferred annuity—Refunds—Deposit of amount withdrawn—Annuity to survivors—Termination and restoration of annuity—Determination of dependency and disability.

(a) Should any teacher to whom this subchapter applies, after completing five years of eligible service and before becoming eligible for retirement, become separated from the service, such teacher may elect to receive a deferred annuity, computed as provided in section 31–725, beginning at the age of sixty-two years and terminating on the date of his death: *Provided*, That any teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section, shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits with interest thereon, (*computed to the date of separation or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier*) or any voluntary contributions made under the provisions of section 31–721, with interest (*computed to the date of separation or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier*): *Provided further* That no teacher who shall withdraw the amount of his deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless he shall [deposit in the fund] *repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such act,* the amount so withdrawn by him (*including the interest thereon*) *plus interest computed in accordance with section 21(c) of this Act*: *And provided further*, That the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding one hundred [, with interest at 3 per centum compounded annually].

(b)(1) In the event any teacher to whom this subchapter applies shall die subsequent to March 5, 1952, after completing at least eighteen months of eligible service and is survived by a widow, or widower, such widow or widower shall be paid an annuity beginning the day after the teacher dies, equal to 55 per centum of the amount of an annuity computed as provided in subsection (a) of section 31–725 with respect to such teacher, except that in the computation of the annuity under such subsection the annuity of the teacher shall be at least the smaller of (i) 40 per centum of his average salary, or (ii) the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become sixty years of age. Such annuity and any right thereto shall terminate on the last day of the month before (A) the widow or widower dies, or (B) the widow or widower remarries before becoming sixty years of age. In the case of a widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming sixty years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(i) the widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the widow or widower may be entitled, under this subchapter or another retirement system for employees of the Federal or District Government, by reason of the remarriage; and

(ii) any lump sum paid on termination of the annuity is [returned to the teachers' retirement and annuity fund established under section 2 of this Act] *repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.*

* * * * * * *

DISTRICT OF COLUMBIA CODE, SECTION 31–730

§ 31–730. Beneficiaries—Order of precedence for payment of lump-sum benefits—Payment of lump-sum credit—Definitions.

(a) Under regulations prescribed by the Commissioner of the District of Columbia, a present or former teacher may designate a beneficiary or beneficiaries for the purpose of this subchapter.

(b) Lump-sum benefits authorized by subsections (c), (d), and (e) of this section shall be paid in the following order of precedence, to the person or persons surviving the teacher and alive at the date title to the payment arises, and the payment bars recovery by any other person:

First, to the beneficiary or beneficiaries designated by the teacher in a signed and witnessed writing received by the Commissioner of the District of Columbia before his death.

Second, if there is no designated beneficiary, to the widow or widower of the teacher.

Third, if none of the above, the child or children of the teacher and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the teacher or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the teacher.

Sixth, if none of the above, to such other next of kin of the teachers as the Commissioner of the District of Columbia determines to be entitled under the laws of the domicile of the teacher at the date of his death.

For the purpose of this subsection, the term "child" includes a natural child and an adopted child, but does not include a stepchild.

(c) If—

(1) a teacher dies—

(A) without a survivor, or

(B) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed; or

(2) a former teacher not retired dies, the lump sum credit shall be paid.

(d) If all annuity rights under this subchapter based on the service of a deceased teacher terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(e) If an annuitant dies, any annuity accrued and unpaid shall be paid.

(f) For purposes of this section, the term "lump-sum credit" means the unrefunded amount consisting of—

(1) retirement deductions made under this subchapter from the salary of a teacher;

(2) amounts deposited into the teachers' retirement and annuity fund by a teacher covering earlier service; and

(3) interest, *earned prior to the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act*, on the deductions and deposits made with respect to service which aggregates more than one year but excluding interest for the fractional part of a month in the total service.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 10; Mar. 6, 1952, 66 Stat. 21, ch. 95, § 9; Dec. 29, 1967, Pub. L. 90-231, § 1(7), 81 Stat. 750.)

DISTRICT OF COLUMBIA CODE, SECTION 31-734

§ 31-734. Records and accounts—Report to Congress—Appropriation estimates.

The Commissioner of the District of Columbia shall prepare and keep all needful tables, records, and accounts required for carrying out the provisions of this subchapter. The records to be kept shall include data showing the mortality experience of the teachers in the service of the public schools of the District of Columbia and the rate of withdrawal from such service, and any other information pertaining to such service that may be of value and may serve as a guide for future valuations and adjustments of the plan for the retirement of teachers. [The] *Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the* Commissioner of the District of Columbia shall make a detailed comparative report annually to Congress showing all receipts and disbursements under the provisions of this subchapter, together with the total number of persons receiving annuities and the amounts paid them. [And the Treasury Department shall prepare the estimates of the annual appropriations required to be made to the teachers' retirement and annuity fund, and shall make actuarial valuations of such fund at intervals of five years, or oftener if deemed necessary by the Secretary of the Treasury.] (Aug. 7, 1946, 60 Stat. 881. ch. 779, § 14.)

DISTRICT OF COLUMBIA CODE, SECTION 31–735

[§ 31–735. Transfer of appropriations.]

[The Commissioner of the District of Columbia shall include in his annual estimates of appropriations a sum sufficient to carry out the provisions of this subchapter. Appropriations made for the purposes of this subchapter shall be transferred to the credit of the teachers' retirement and annuity fund established under section 31–722. (Aug. 7, 1946, 60 Stat. 881, ch. 779, § 15.)]

DISTRICT OF COLUMBIA CODE, SECTION 31–737

§ 31–737. Funds not assignable or subject to execution.

None of the money mentioned in this subchapter (*including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act*) shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process. (Aug. 7, 1946, 60 Stat. 882, ch. 779, § 17.)

DISTRICT OF COLUMBIA CODE, SECTION 31–739A

§ 31–739a. Adjustment of annuities on basis of price index—Computation—Definitions.

(a) Effective December 1, 1965, each annuity payable from the fund which has a commencing date not later than January 1, 1966, shall be increased by (1) the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, determined by the Commissioner of the District of Columbia on the basis of the annual average price index for calendar year 1962 and the price index for the month of July 1965 plus (2) 6½ per centum if the commencing date (or in the case of a survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred on or before October 1, 1956, or 1½ per centum if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956. The month used in determining the increase based on the per centum rise in the price index under this subsection shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs.

[(b) Each month after the first increase under this section, the Commissioner of the District of Columbia shall determine the per centum change in the price index. Effective the first day of the third month which begins after the price index chall have equaled a rise of at least 3 per centum for three consecutive months over the price index for the base month, each annuity payable from the fund has a commencing date not later than such effective date shall be increased by 1 per centum plus the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum.**]**

(b)(1) The Mayor shall—

(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

(A) in the case of an increase under paragraph (2) (A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

(c) Eligibility for an annuity increase under this section shall be *as provided in subsection (b)(2)* **[**governed by the commencing date of each annuity payable from the fund as of the effective date of an increase], except as follows:

(1) Effective from its commencing date, an annuity payable [from the fund] to an annuitant's survivor (other than a child entitled under section 31–729(b)(3), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

(3) For the purpose of computing the annuity of a child under section 31–729(b)(2) that commences after October 31, 1969, the items $900, $1,800, $2,700, and $3,240 appearing in section 31–729(b)(2) shall be increased by the total per centum increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 per centum and 75 per centum appearing in section 31–729(b)(2) shall be increased by the total per centum allowed and in force to the annuitant under this section on or after such day.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

(f) For purposes of this section, the term "price index" shall mean the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. The term "base month" shall mean the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase. (Aug. 7, 1946, ch. 779, § 21, as added Oct. 24, 1962, 76 Stat. 1236, Pub. L. 87–881, title II, § 202, and amended July 5, 1966, Pub. L. 89–494, § 1, 80 Stat. 266; Dec. 29, 1967, Pub. L. 90–231, § 1(9), 81 Stat. 751; May 22, 1970, Pub. L. 91–263, § 1(c), 84 Stat. 257.)

DISTRICT OF COLUMBIA CODE, SECTION 31–744

§ 31–744. Annuities under sections 31–741 to 31–743 to be paid from District of Columbia teachers retirement and annuity fund—Conditions under which annuities and increases terminate after July 1, 1960.

The annuities and increases in annuities provided by sections 31–741 to 31–743 shall be paid from the District of Columbia teachers retirement and annuity fund *until such time as all amounts in such fund have been expended or transferred under section 123(a) of the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund.* Such annuities and increases in annuities shall terminate for each fiscal year beginning on or after July 1, 1960, for which the Congress has failed to make provision for the payment of like annuities and increases in annuities under the Act approved June 25, 1958 (72 Stat. 218), for such fiscal year. For any fiscal year for which such annuities and increases in annuities shall terminate for the reason set forth in this section, sections 31–741 to 31–743 shall not be in effect and annuities and increases in annuities shall be determined and paid as though such sections had not been enacted. Nothing contained in this section shall be held or considered to prevent the payment of annuities and increases in annuities provided by sections 31–741 to 31–743 for any fiscal year for which the Congress shall have made provisions for the payment of like annuities and increases in annuities under such Act approved June 25, 1958 (72 Stat. 218). (Sept. 2, 1958, 72 Stat. 1769, Pub. L. 85–917, § 4).

DISTRICT OF COLUMBIA CODE, 31–745

§ 31–745. Crediting of certain authorized leave periods for retirement purposes—Conditions.

Any teacher who, on or after June 27, 1960, retires pursuant to this subchapter, shall be entitled to have included in the years of service creditable to him for retirement purposes any period of authorized leave of absence which was taken by him without pay, and for educational purposes; except that credit for any such period shall be conditioned upon *payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teacher's Retirement Fund established by section 123(a) of such Act,* [the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia] of a sum equal to the accumulated contributions [and interest] which would have been credited to his individual account if he had remained on active duty in the public schools of the District of Columbia during any such period *plus interest computed in accordance with section 24(b) of such Act of August 7, 1946: Provided,* That in order to receive such retirement credit a teacher must produce evidence satisfactory to the Superintendent of Schools of the District of Columbia that the authorized leave of absence without pay was taken for educational purposes. (June 27, 1960, 74 Stat, 22, Pub. L. 86–525.)

AN ACT FOR THE RETIREMENT OF PUBLIC-SCHOOL TEACHERS IN THE DISTRICT OF COLUMBIA (D.C. CODE 31–721)

Sec. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods.

(1) Prior to the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

(2) For the period beginning at the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 percent a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE,
June 27, 1979.

on. ABRAHAM RIBICOFF,
hairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to sections 308(a) and 403 of the ongressional Budget Act, the Congressional Budget Office has pre- ared the attached cost estimate for S. 1037, the District of Columbia etirement Reform Act.

Should the committee so desire, we would be pleased to provide urther details on the attached cost estimate.

Sincerely,

ROBERT D. REISCHAUER,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

June 27, 1979.

1. Bill number: S. 1037.

2. Bill title: District of Columbia Retirement Reform Act.

3. Bill status: As reported by the Senate Committee on Governmental Affairs, June 26, 1979.

4. Bill purpose: The District of Columbia Retirement Reform Act establishes separate retirement funds for District of Coumbia firemen and policemen, teachers, and judges, and provides for the financing of these funds on an actuarially sound basis. The bill specifies the funding responsibilities of both the Federal Government and the District of Coumbia for each retirement fund, and authorizes through the year 2005 the appropriation of specific sums for payment by the Federal Government into the retirement funds. In addition, the bill defines procedures for the management of the retirement funds and modifies various benefit provisions of the three retirement systems. This is an authorization bill, subject to subsequent appropriation action.

5. Cost estimate: This bill authorizes direct federal payments to the three retirement funds beginning in fiscal year 1981 and continuing through fiscal year 2005. The amounts for these payments shown below are both the authorization levels and estimated outlays for each year.

AUTHORIZATION AMOUNTS AND ESTIMATED COSTS

[By fiscal year; in millions of dollars]

	1981	1982	1983	1984	1985
Police officers' and fire fighters' fund	49.3	49.3	49.3	49.3	49.3
Teachers' fund	15.5	15.5	15.5	15.5	15.5
Judges' fund	.2	.2	.2	.2	.2
Total	65.0	65.0	65.0	65.0	65.0

The cost of this bill falls within budget function 850.

6. Basis of estimate.

This cost estimate assumes full appropriation of the authorization levels specified in this bill.

It is also assumed that there will be no reduction in the Federal contribution to the District of Columbia Police Officers' and Fire Fighters' Retirement Fund as provided for in section 145 of the bill. Certain disability provisions of this bill are not applicable to individuals hired prior to 90 days after its enactment. These provisions deal with limitations on outside income, determination of impairment by the Board of Surgeons, determination of disability percentage by the Retirement Board, and minimum disability payments.

Section 145 states that, beginning in calendar year 1981, a report shall be presented to the Congress that compares the estimated costs (present value as of the date of determination) of future disability retirement benefits for District of Columbia police and firemen who were hired prior to 90 days after enactment of the bill, but who had not yet retired, with the estimated cost of future disability retirement benefits if this same group of District police and firemen had been hired after the 90-day period. If this analysis shows that the cost of disability retirements for the population not covered by the provisions previously mentioned exceeds by more than 2 percent the cost that would have resulted if that population had been covered, the Federal contribution is to be reduced.

To determine the reduction, this bill requires the calculation of the ratio of the number of District of Columbia police and firemen who retired on disability during the preceding calendar year to the total number of District police and firemen who withdrew from the system while eligible for deferred annuity and were hired prior to the end of the stated 90-day period. This ratio, multiplied by the amount authorized for the District of Columbia Police Officers' and Fire Fighters' Retirement Fund, equals the amount that the Federal contribution should be reduced.

At this time, there appears to be no basis for estimating that the failure of the act to include certain employees under the disability provisions cited earlier would result in costs for these employees that are greater by more than 2 percent. If it were determined that the 2-percent threshold was exceeded, however, it is estimated that Federal payments would be approximately 35 percent lower for the year following the date of determination. This figure is based on historical data on disability retirements and withdrawals from active service. The first year to which a reduction could be applicable is fiscal year 1982.

7. Estimate comparison: None.

8. Previous CBO estimate:

On May 11, 1977, CBO estimated costs for H.R. 6536, a bill somewhat different from S. 1037. H.R. 6536 specified the Federal contribution as an amount equal either to the difference between the base net level percentage cost and the net pay-as-you-go cost, or to a specified maximum Federal payment. Estimated costs for H.R. 6536 were $47.5 million for fiscal year 1980 and decreased to $45.2 million by 1984.

On May 10, 1978, CBO estimated costs for S. 2316. This bill authorized direct Federal payments to the three retirement funds similar to the payments in S. 1037, but allowed for no reduction in the payment to the Police Officers' and Fire Fighters' Fund. Estimated costs for S. 2316 were $73.5 million for each year, beginning in 1979 and continuing through fiscal year 2003.

On May 25, 1979, CBO estimated costs for H.R. 3939. This bill is similar to S. 1037, except that the reduction to the Federal contribution to the District of Columbia Police Officers' and Fire Fighters' Retirement Fund is calculated by comparing the police and fire departments of the District of Columbia to the five largest departments in the country. Estimated costs for H.R. 3939 were $61.5 million for 1980, decreasing to $59.5 million by 1984.

9. Estimate prepared by: Bianca D. DeLille (225-5373).

10. Estimate approved by:

JAMES R. COPRA,

(For James L. Blum, Assistant Director for Budget Analysis).

REGULATORY AND PAPERWORK IMPACT STATEMENT

Pursuant to the requirements of section 5(a)(1) of rule XXIX of the Standing Rules of the Senate (section 602 of S. Res. 4), the committee makes the following evaluation of the regulatory impact of S. 1037.

Since the bill modifies the retirement system currently administered by the District of Columbia, there will be no Federal regulations or paperwork involved. However, since the Federal Government contributes a sizable amount annually to the District of Columbia, the committee is aware that there may be an indirect regulatory burden from the ERISA-like provisions of certain sections of the bill.

To protect the employees' interests, the Retirement Board must furnish certain information to system members, the Board members must make certain disclosures, and the Board must maintain additional records relating to vesting and participation, all of which create additional paperwork.

To tighten the administration of the disability system, the bill provides for the Mayor to promulgate regulations to certify post-retirement earnings, to require a medical examination of the disability, to provide proper penalties for failure to comply with the aforementioned. To restrain inflation from eroding a retirement benefit, the bill provides for the Mayor to regulate the cost-of-living increases using the revised Consumer Price Index for all urban consumers. The same responsibility falls on the Mayor in regard to interest requirements on redeposits, buy-back provisions and withdrawals.

To bolster the administration of the pension system and prevent the high numbers of disability retirements from bankrupting the District, the required regulations are necessary and have been drawn to be the least burdensome, following the procedures currently employed by the District.

Record Vote in Committee

JUNE 26, 1979

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall votes taken during committee consideration of this legislation was as follows:

Final passage:[1] Ordered reported 10 yeas–0 nays.

YEAS

Ribicoff
Eagleton
Chiles
Glenn
Sasser
Pryor
Percy
Javits
Cohen
Durenberger (Proxy): Levin

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[1] S. 1037 was one of several measures approved en bloc by this rollcall vote.

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